

APPENDIX A.1: WHITECHAPEL ESTATE APPEAL DECISION



Appeal Decision

Inquiry held on 21-24 November, 28-30 November and 6 December 2017

Site visits made on 30 November, 1 and 5 December 2017

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 February 2018

Appeal Ref: APP/E5900/W/17/3171437

The Whitechapel Estate, Site between Varden Street and Ashfield Street, London E1 2JH

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Cross Property Investment SARL and Cross Property Investment West SARL against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/15/02959, dated 16 October 2015, was refused by notice dated 17 October 2016.
 - The development proposed is described as demolition of all existing buildings and redevelopment to provide 12 buildings ranging from ground plus 2-23 storeys (a maximum 94m AOD height), comprising 343 residential dwellings (Class C3), 168 specialist accommodation units (Class C2), office floorspace (Class B1), flexible office and non-residential institution floorspace (Class B1/D1), retail floorspace (Class A1-A3), car parking, cycle parking, hard and soft landscaping and other associated works.
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Decision

1. The appeal is allowed and planning permission is granted for demolition of all existing buildings and redevelopment to provide 12 buildings ranging from ground plus 2-23 storeys (a maximum 94m AOD height), comprising 343 residential dwellings (Class C3), 168 specialist accommodation units (Class C2), office floorspace (Class B1), flexible office and non-residential institution floorspace (Class B1/D1), retail floorspace (Class A1-A3), car parking, cycle parking, hard and soft landscaping and other associated works at The Whitechapel Estate, Site between Varden Street and Ashfield Street, London E1 2JH, in accordance with the terms of the application Ref PA/15/02959, dated 16 October 2015, subject to the conditions set out in the schedule attached to this decision.

Preliminary matters

2. The planning application form stated that the application was submitted by Londonewcastle on behalf of the two companies now listed as appellants in the heading above. It was confirmed at the Inquiry that Londonewcastle were acting only as development managers and were not party to the appeal.
3. The description of proposed development set out above follows the amended version agreed during consideration of the application and now included in the **Statement of Common Ground ('SCG')** agreed for the purposes of the appeal by the appellants and the Council.

4. It was agreed at the Inquiry that several basement level plans listed in the SCG were mutually inconsistent in the layout shown. Amended versions of five plans¹ were provided and the schedule of plans was revised. As the amendments involve a relatively minor adjustment to the internal **arrangements at basement level only, I consider that no other parties' interests** would be prejudiced by taking them into account in my decision.
5. Before the Inquiry closed, a Supplementary SCG² was submitted to address matters of affordable rents and housing land supply, which are considered later in this decision. The document also records agreement that the Draft London Plan, which was published during the Inquiry for the purposes of consultation, did not raise any new issues requiring additional evidence, and that very limited weight could be afforded to the new Draft, given the very early stage in its preparation. Having regard to the guidance of the National Planning Policy **Framework ('NPPF')** on the weight to be given to emerging plans³, I accept that agreed position.
6. The second reason for refusal of the application concerned the lack of planning obligations to ensure mitigation of the impacts of the proposed development. The appeal was accompanied by a draft planning obligation in the form of an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to be completed by the landowners, the mortgagee and the Council. Negotiations on the terms of necessary obligations continued during the course of the Inquiry, including the potential need for a unilateral undertaking to run in parallel with an agreement. By the close of the Inquiry, a single form of agreement satisfactory to all parties was finally settled, so that the Council's objection on this ground was now addressed. Additional time was allowed following the close of the Inquiry for the agreement to be signed and submitted as a properly executed deed⁴. The provisions of the agreement and their bearing on the appeal are considered later in this decision.
7. The **proposal was deemed to be an Environmental Impact Assessment ('EIA')** development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the application was accompanied by an Environmental **Statement ('ES') dated October 2015**, prepared in accordance with those Regulations. The ES was supplemented during consideration of the application by Addendum volumes dated February 2016 and May 2016, and the Townscape, Heritage and Visual Impact Assessment **('THVIA') that makes up Volume 2 of the ES was supplemented in November 2015, February 2016 and May 2016**. The full ES now comprises all of these additions and amendments.
8. Since the appeal was submitted, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 came into force on 16 May 2017. Regulation 76 of the 2017 Regulations includes transitional arrangements for qualifying applications and appeals. I have considered the appeal in accordance with these Regulations and I am satisfied that it meets the requirements of the transitional arrangements. Therefore the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 will continue to apply to this appeal. I am satisfied that the proposal is EIA

¹ Plans no. 1264-A-BE-099A, 1264-A-BFG-099A, 1264-A-BHa-099A, 1264-A-BHb-099A, 1264-A-BI-099A

² ID 32

³ NPPF paragraph 216

⁴ ID 36

development and that the ES is adequate for the purposes of those Regulations. In reaching my decision I have had regard to the ES and all other relevant environmental information.

9. As well as an initial visit to familiarise myself with the site and surrounding area, I carried out a further unaccompanied visit to see the site after dark, as requested by the appellants. Following a formal inspection of the site and the local area accompanied by representatives of both main parties, I made further unaccompanied visits to see a number of other locations agreed by the parties.

Site context and appeal proposal

10. The appeal site is **located just to the south of the Royal London Hospital ('RLH')** in a wedge of the city contained by the main arteries of Whitechapel Road and Commercial Road. The site, amounting to some 1.27 hectares, has historically formed part of the RLH estate but is now in private ownership. The site comprises the majority of an urban block bounded to the west by Turner Street and to the east by the rear of houses fronting onto Cavell Street, to the north by Ashfield Street and to the south by Varden Street. Philpot Street, part of which has been planted over, forms a pedestrianised route through the centre of the block, and the site also includes a length of this former street space to the north of Ashfield Street.
11. Part of the block is occupied by buildings that date from the original layout of the tightly built grid of streets in the early nineteenth century. There are also some replacement buildings of the later nineteenth and early twentieth century. However, a large proportion of the block was redeveloped in the 1950s, 60s and 70s to provide facilities for the RLH, comprising staff and student accommodation, research laboratories and a school of nursing. The appeal proposal seeks to demolish and replace a number of buildings of this type.
12. The south-western corner of the block lies within the Myrdle Street **Conservation Area ('CA') but only one 4-storey commercial building**, No. 38 Turner Street, is included in the appeal site. The bulk of the London Hospital CA lies to the north of the block, but a very small component of the appeal site falls within it, comprising one of a short row of late nineteenth century houses, No.80 Ashfield Street, and the 2-storey former garage behind it, No.80a, which is now in office use. However, the CA also extends into the heart of the block to include Grade II listed terraces on the west side of Philpot Street and the north side of Walden Street, as well as a pair of listed houses at 46-48 Ashfield Street. The appeal site is drawn up to the front boundary of these houses. There are other listed buildings nearby on both sides of Newark Street, **including the Grade II* former St Augustine's church, and several locally listed houses**, some of them within the Ford Square Sidney Square CA, which directly abuts the appeal site to the east.

Appeal proposal

13. In the western half of the site, it is proposed to replace 6 blocks originally built **as nurses'** and staff accommodation and ranging in height from 5 to 7 storeys, and also No.38 Turner Street. In the eastern half of the site, the 10-storey Y-shaped John Harrison House, built as staff living quarters but now partly in office use, would be replaced, together with a 3-storey research laboratory

- block fronting onto Ashfield Street, and No.80a. A large area that has been occupied by temporary cabins for RLH use would also be redeveloped.
14. The proposal would predominantly provide new housing, made up of a mix of 286 market units and 57 affordable units, together with 168 small specialist units available either to staff working in the NHS, the RLH and Queen Mary **University of London ('QMUL')** or for short-term occupation by patients and their families.
 15. The proposed replacement buildings would comprise, on the western half of the site: Building A, a 4-storey over basement block fronting onto Ashfield Street and to contain 34 specialist studio apartments; Buildings B1 and B2, respectively of 9 and 7 storeys over basement facing Turner Street and to provide 40 market apartments and a ground floor retail/food unit flanking a new pedestrian link to Walden Street; Building C, to form a 5-storey over basement frontage to Varden Street and to contain 9 affordable duplex apartments and 74 specialist studio units; Building D1, a 10-storey over basement block at the corner of Philpot Street and Walden Street, to house 31 market apartments above a retail/food unit; Building D2 to form a row of 6 houses along the south side of Walden Street, of 3 storeys over basement in height.
 16. On the eastern half of the site, John Harrison House would be replaced by Building E, a distinctive tower block rising to 20 storeys and providing 85 market apartments, a ground floor retail/food unit and gym and a basement swimming pool. Adjoining Building E, Building F would form a 5-storey over basement frontage to Varden Street, continuous with Building G, the rear part of which would rise to 9 storeys. These blocks would provide 50 affordable apartments. The commercial unit to the rear of houses on Ashfield Street would be replaced by the 4-storey over basement Building Ha, which would comprise 12 market apartments. Ashfield Street would be fronted by Building Hb, comprising 6 storeys of office/institutional space with a basement able to provide a lecture theatre or offices. The street frontage would be completed by the directly adjoining Building I, which would be a 24-storey over basement tower, comprising 60 specialist studio units on the lower floors and 112 market apartments above.
 17. At the heart of the site, the space of Philpot Street would be laid out as a well-planted pedestrian route, **to form a 'green spine' through the scheme. It is proposed that this treatment could also extend into areas fronting the two main buildings on the opposite side of Philpot Street not in the appellants' ownership, namely the School of Nursing with its distinctive 'pillbox' front and Floyer House student accommodation. Private gardens would be provided to the rear of buildings in the western half of the site and a residents' communal garden/play space enclosed by the buildings to the east.**
 18. The masterplan for the scheme and the buildings on the eastern half of the site together with Building A were designed by one firm of architects, and the other buildings on the western half were designed by a second firm.

Main Issues

19. Arising from the reasons for refusal of the planning application and the evidence presented to the Inquiry, I consider the main issues in the appeal to be:

- The quality of design of the appeal proposal and its effect on the character and appearance of the area and on the wider townscape;
- The effect on heritage assets and their settings;
- The effect on living conditions of neighbouring residents, having regard in particular to daylight and sunlight, outlook and privacy;
- The quality of living conditions for future residents of the development, having regard in particular to daylight and sunlight, overshadowing, outlook and privacy.

Reasons

Policy context

20. The development plan for the purposes of the appeal comprises the policies of the London Plan⁵ ('LP') of March 2016, and the London Borough of Tower Hamlets **Local Plan, made up of the Core Strategy ('CS') adopted** in September 2010, and the Managing Development Document ('MDD') adopted in April 2013.
21. LP policies of particular relevance to the appeal include: Policy 7.5 on the quality of the public realm; Policy 7.6, on quality of architecture and design of buildings and places; Policy 7.7, which deals with the location and design of tall and large buildings; Policy 7.8 on the conservation of heritage assets; Policy 3.5 on the quality and design of housing developments. CS policies of greatest relevance include Policy SP10, on the protection of heritage assets and the promotion of good design and Policy SP12 on positive placemaking. Of the MDD policies, the most relevant are: Policy DM25 which seeks to protect and improve residential amenity; Policy DM26 on building heights; DM27 on the preservation and enhancement of heritage assets.
22. **The City Fringe Opportunity Area Planning Framework ('OAPF')** adopted in December 2015 forms Mayoral Planning Guidance that supplements LP and Local Plan policies in respect of the area around the northern and eastern fringes of the City of London, which are seen as a key focus for growth and regeneration. Whitechapel lies within the Core Growth Area and is identified as the main London component of the Med City initiative that seeks to promote a world-class life-sciences research cluster. The strategy is to avail of **development opportunities that lie close to the area's existing medical and research institutions**, and within easy reach of the soon to be opened Crossrail station. The appeal site is identified as one such opportunity, centred on a north-south **'linear park' to form the spine of a potential Med City campus** extending from Whitechapel High Street through the original RLH building.
23. The OAPF draws upon the earlier Whitechapel Vision Masterplan ('WVM') which was adopted in December 2013 as a supplementary planning document to the Local Plan in anticipation of the arrival of Crossrail and the completion of the new RLH buildings. The WVM sets out a vision for the entire local area based on **6 'Key Place Transformations', one of which** is the Med City Campus centred on the **'Green Spine'**. The appeal site's contribution⁶ is to include a high density

⁵ The London Plan: The Spatial Development Strategy for London Consolidated with Alterations Since 2011, March 2016

⁶ WVM p29

new residential quarter to accommodate family-sized especially affordable homes and specialist housing, with opportunities for office and research space associated with QMUL, other institutions and RLH, and with active ground floor uses addressing the Green Spine. The key urban design principles include a landmark building to the east of Philpot Street and the reopening of a key route along Walden Street.

Proposed uses

24. **The Council's case at the Inquiry was couched in terms of disappointment that the appeal proposal would be largely residential in nature and would not be targeted at delivery of the life-sciences research aspiration of the OAPF and WVM. Whilst this concern was touched upon in the Council's officer report on the planning application, it was not an issue that was critical to the recommendation for refusal of planning permission. The report explained that the main non-residential component, Building Hb, would be likely to be used for RLH admin offices and that the lecture theatre might not be required, but that lack of take-up was beyond the applicants' control.**
25. It is not disputed that the space proposed would be suitable to support research or education-based use, and representations on behalf of QMUL state that they had not ruled this out. The space would remain available for possible future use either by institutions or SMEs and any medical-related use in the interim, **if implemented, can be seen as supporting the area's core function.**
26. Different paragraphs of the OAPF and WVM place slightly differing emphasis on the relative primacy of Med City and residential uses over the wide area to the south of Whitechapel Road. However, the most detailed guidance on the appeal site, in the WVM, clearly leads on the provision of housing, with potential opportunities for offices and research space. The Council accepts that both guidance documents support residential development. The SCG records that, as **set out in the Council's officer report, the principle of proposed land uses is consistent with the LP and Local Plan objectives for the site and with both the OAPF and the WVM. The nature and mix of proposed uses did not form part of the reasons for refusal and I find no reason to reach a different conclusion.**

Design, character and appearance

27. **The history of the area's development is well set out in the THVIA. The growth and expansion of the RLH in particular has resulted in an historic pattern of increasing intensification of development south from Whitechapel Road. The recently built main RLH building represents the culmination of this in terms of size and scale, with its massive form and height equivalent to 25 residential floors. The impact of this building has been transformational in physical terms as well as in confirming the importance of the location as a community facility, employment provider and centre of education and research. These are the factors, along with the arrival of Crossrail, that have inspired the area's inclusion in the OAPF and the ambitions of the WVM.**
28. The changes that have taken place on the appeal site and its immediate surroundings over the past 50 or so years are part of the same pattern of intensification. The history of the site shows that there was already from early times evidence of buildings of more institutional character and scale than the nearby terraced housing, with the religious and school buildings on the east

side of Philpot Street being the most obvious example. The 1930s view⁷ following the construction of Floyer House shows buildings of considerable presence on both sides of the street.

29. The buildings added from the 1950s onward form part of a continuous evolution of the site and its environs. There is no dispute that these are not buildings of high architectural quality. The formulaic design of the 5 to 7 storey blocks gives little impression of a considered response to the individual circumstances of each site and they have poor interface with the public realm. John Harrison House and the School of Nursing provide a more distinctive response but enclose space in a rather arbitrary way. Private external spaces are not amenable to active use and both they and the more public spaces appear to receive a relatively basic level of maintenance. I agree with the main parties that there should be no objection in principle to the loss of any of the health-related buildings proposed for removal, whose replacement provides an opportunity for considerable enhancement.
30. There also can be little objection to the principles set out for this task by the masterplan, based on repair of the urban block with well-defined active frontages defining permeable routes and open spaces, including creation of the Green Spine. **Instead the Council's objection arises** from the application of these principles to arrive at the proposed design, with the prime concern that perceived overdevelopment would be harmful to the character and appearance of the area.

Tall buildings: Policy and principle

31. **The role of tall buildings is central to the Council's concern. It is now argued** that four blocks (Buildings B1, D1, E and I) should fall within the definition of **"tall buildings" envisaged by LP Policy 7.7 and MDD Policy DM26⁸ as "...those that are substantially taller than their surroundings, (and) cause a significant change to the skyline ...". At 9 storeys and 10 storeys respectively, Buildings B1 and D1 are of a different order to Buildings E and I, which in my judgement are those that would be commonly regarded as "tall buildings". Were John Harrison House to remain on the site, neither of the lower buildings would have been significantly taller than its surroundings. Nevertheless, as both buildings would marginally exceed the GLA notification limit, they can be taken as tall buildings for the purposes of policy compliance.**
32. LP Policy 7.7 calls for a plan-led approach to the location of tall buildings, with **Local Development Frameworks ('LDFs') to identify areas appropriate, sensitive or inappropriate for such structures. The Council's Local Plan has not yet** classified locations in those specific terms, but MDD Policy DM26 states that building heights will be considered in accordance with the town centre hierarchy, ranging from Preferred Office Locations identified by the CS, through Other Preferred Locations, district centres, neighbourhood centres and areas outside of town centres. This goes some way towards meeting the LP stipulation.
33. There was much difference of opinion at the Inquiry over the appropriateness of a retail-led designation such as a district centre being the determining factor and whether the appeal site should be seen as lying within a less tightly

⁷ THVIA Fig 3.30

⁸ The definition is taken from former CABE/English Heritage 2007 Guidance on Tall Buildings

defined district centre suggested by Fig 11 of the WVM. I agree with the appellants that a literal interpretation of the two diagrams that would place the appeal site on an equal footing with an outer suburban area does not make sense. The area to the south of RLH has been positively identified for high density development around a major spine route and close to a main public transport hub. If the WVM vision is realised, the zone along the Green Spine would effectively be elevated in status.

34. In any event, LP Policy 7.7 goes on to state that tall buildings should generally be limited to sites in (amongst others) opportunity areas and town centres. As the appeal site lies within the City Fringe Opportunity Area, it therefore has in-principle development plan support as a suitable location. The Council also accepts that MDD Policy DM26 does not rule out proposals sites at the lower end of the hierarchy, so long as they can be shown to meet the LP and MDD criteria. Therefore, it is not a matter of rigidly interpreting Policy DM26 to conclude it is out of date, as suggested by the appellants, but of assessing the proposals against the relevant policy criteria.
35. Similarly, while the Council draws attention to the differently phrased guidance on building height used by the OAPF and the WVM for different sectors of the Whitechapel area, I find nothing in either document to suggest that tall buildings would not be appropriate in principle. In fact, the WVM guidance on landmark buildings⁹ states that their importance may be reflected through high quality taller buildings, which in the context of the new RLH building provide an opportunity to positively contribute to the new built form and character of Whitechapel. By my reading this can apply both to the north and to the south of the RLH.

Buildings E and I

36. One of the core planning principles of national policy as set out in the NPPF is always to secure high quality design. **The Council's case places emphasis on the LP requirement for buildings, including tall buildings, to be of the "highest quality architecture"**¹⁰. This applies throughout the capital, so that it does not render the appeal site particularly special in this respect, as the Council now seem to suggest. However, the requirement is repeated by the WVM, and the need to address the many facets of quality design, as outlined by national and local policy, is highly relevant to the appeal.
37. The appellants have clearly embraced the issue of design quality in bringing forward the development proposal. The initial brief to a competitive selection of **leading architects, which was provided to the Inquiry, calls for "a scheme of the highest architectural standards, setting a benchmark for the local environs"**¹¹. The ambition is endorsed by the award of the masterplan commission to a practice with a proven track record of design of major projects, and reinforced by the later addition of a second eminent firm to bring a different perspective to the western half of the site, and an award-winning landscape architect to lead on open space design.
38. The design rationale is set out in detail in the comprehensive Design and **Access Statement ('DAS')** and has been expanded upon in evidence. These

⁹ WVM p14

¹⁰ LP Policies 7.6B, echoed by Policy 7.7C

¹¹ ID 16 p2

confirm the designers' commitment to achieve the highest standards.

Independent appraisals of design quality have been carried out at pre-application stage **by the Greater London Authority ('GLA') and by the Council's** own Whitechapel Design Review Panel, and again by the GLA through referral of the planning application. The design approach has been supported, with any initial reservations about the relative height of the two taller buildings effectively addressed by the reduction in height of Building I to below the height of the RLH. Significant weight can be attached to the GLA assessment that the amended proposals would accord with LP design policies.

39. In my view, both Building E and Building I represent accomplished solutions, in the abstract, to the design of a tall building. Building E would be highly distinctive in its stepped form, with its pattern of slightly distorted horizontal layers softened by greenery, and its striking white curved masonry elements. Building I would have a lightness of impact derived from its elegantly framed façade treatment and the vertical and horizontal disposition of the different components of the tower. The issues arise from the relationship between the two buildings and their relationship with their context, both existing and proposed.
40. There is no dispute that Building E would be suitably located for the landmark function sought by the WVM, and I consider that the building would amply fulfil that role, due to its distinctive treatment and its height. I accept that the 1930s buildings in the area identified by the architects do provide some precedent, albeit at a much more modest scale, for the effectiveness of a form and façade treatment in deliberate contrast to the predominant earthy brick tones and rectilinear forms of the surroundings. As proposed, the building would provide a memorable image to mark the southern limit of the pedestrianised Green Spine, **which contrary to the Council's view I consider to be a point of some significance.** While it is true that a lower building might fulfil a similar role, this does not in itself provide a strong argument against the proposed design, whose proportions benefit greatly from the height proposed.
41. Building I is described as a more contextual building, whose primary attribute would be to mediate the bulk of the RLH building. This role was said to have emerged as a result of design analysis. In the light of evidence that no studies were carried out to explore lower density solutions, it appears that the genesis of the tower might equally lie in the need to meet the brief for maximum housing density. But that does not negate the potential benefit of placing a more elegant building next to the south side of the RLH block. I acknowledge **the Council's** case that mediation of the RLH is not a requirement of the WVM or any other policy document. However, all parties recognise the dominant bulk of the RLH building, whose bland rather amorphous slab-like mass looms in **views from the south. The building's civic** status and ability to influence wayfinding do not adequately justify its visual dominance. The introduction of a further building with a slender vertical proportion would provide a beneficial foil **to the hospital's mass.**
42. I accept that from certain limited viewpoints to the south, especially from the junction of Philpot Street and Commercial Road¹², Building I and Building E would be seen close together, and appear due to perspective to be taller than the more distant RLH. But even in the static view (if less so in the modelled

¹² THVIA View 6

- image) the eye would distinguish the very different character of the two towers and the relative closeness of Building E, which would, as shown by the submitted moving image study¹³, become much more prominent as the viewer moved north. In other views and movement routes from the south, the separation and different form of the two buildings would be more readily distinguished, as well as the relationship with the height of the hospital.
43. In these views, the relatively neutral treatment of Building I would contrast successfully with the exuberance of Building E, emphasising its landmark role. Both together would provide a more interesting built form and skyline than currently offered by the RLH.
44. The Council raise particular concern about views from the east and west, fearing that the scale of the buildings would be unduly dominant in the typically low-rise surroundings of the site. I agree with the appellants that care needs to be given to reliance on static images. Thus, for example, in the modelled view east along Ashfield Street¹⁴, Building I appears in isolation, but from the opposite footway only a few metres away, the RLH would be clearly visible and both buildings would be seen together. The same would be true of the modelled view along Newark Street¹⁵. People moving through the wider area would be well aware of the scale of the RLH. They would encounter occasional views of either or both of the proposed buildings, just as they do now of the RLH block, and also of more distant tall buildings.
45. When such views are looking from smaller-scale environments, such as some streets to the west of the site, the presence of taller buildings in the view would not necessarily be harmful to the experience of the more domestic-scaled setting. This is well illustrated by the modelled views east from Fordham Street¹⁶ and at closer range from Varden Street¹⁷. The Council draws attention to the view east along Walden Street, where Buildings I and E would be seen above Buildings B1 and B2¹⁸. However, the domestic character of Walden Street has already been radically altered by the institutional scale medical school buildings along one side and by the bland 7 storey front of Clare Alexander House closing the view. The appeal proposal would represent change of a different type, but the perception of taller development in depth would have no more adverse effect on the best qualities of the original buildings. Similarly, in the view west from Sidney Square¹⁹, the RLH already looms large above the domestic buildings. Buildings I and E would add further height in the view, but with an interesting counterpoint of form and materials, without compromising the appreciation of the different scale of the square.
46. At closer range, the base of Building E would be stepped out to respond to the scale of Varden Street, and the modelled images²⁰ suggest that the building would provide a generous interface with the public realm at street level. The building's longer flank would begin to re-enclose the space of Philpot Street

¹³ Moving Study 3

¹⁴ THVIA View 12

¹⁵ THVIA View 13

¹⁶ THVIA View 31

¹⁷ THVIA View 8

¹⁸ THVIA Views 10 and 11

¹⁹ THVIA View 4

²⁰ THVIA View 22

along its traditional line but in a distinctive contrast from the buildings opposite which would not detract from their identity²¹.

47. Closer range views of Building I along Ashfield Street in both directions are strongly influenced by the scale and treatment of the RLH Pathology building, which has already transformed the character of the street, as well as by the larger presence of the main RLH block. This would apply particularly to views from the north sides of Ford Square²², where City towers can also be seen closing the vista. The building would undoubtedly be a very significant addition to the street scene, but would not appear unduly dominant, and its projecting base would respond to the scale of the new and existing buildings around it. The building would be tight up to the street line, in a very urban way, but it is not clear that anything would be served by setting the frontage back from the street face. The overhang would provide a reasonable semi-sheltered, albeit north-facing, space to foster a human scale at street level²³.
48. For these reasons, I **do not accept the Council's contention that new** development on the appeal site, in the context of planned transformational change, must reflect the original character of development in the area. I find that the two tallest buildings would not be harmful to pre-existing local character, which could co-exist with significantly taller development on the appeal site. I note that the Council appears to have come to the same view in permitting the proposed development at Whitechapel Central, which is another **WVM "key place transformation" just to the east of the RLH.**

Eastern site

49. The other buildings on the eastern half of the site would be significantly closer in scale to their immediate surroundings. Buildings F and G would form a continuous frontage with the base of Building E, and would redefine the street space of Varden Street at a scale commensurate with that of Silvester House opposite. **The buildings' location at the back of a** widened footway would not create an intense sense of enclosure, as feared by the Council. The set-back frontage of Silvester House provides a poor precedent. The taller rear element of Building G would not be unduly prominent in the street scene or in views from the east.
50. The Council accepts that Building Ha would have limited impact on character and appearance of the area because of its location within the perimeter block, where it would be in scale with adjoining buildings. Building Hb would maintain the existing street face on Ashfield Street, but at a scale that would acknowledge the RLH Pathology block opposite, while providing a transition from the existing terrace to the adjoining Building I²⁴.

Western site

51. At the other end of Ashfield Street, Building A would repair the gap in the street line formed by the existing building. The building would not attempt to replicate the delicacy of treatment of the listed pair at Nos. 46-48 but would restore their context as part of a terraced street, without dominating them in

²¹ THVIA Views 16, 23

²² THVIA View 2

²³ THVIA View 1

²⁴ THVIA View 1

- scale, and would represent an enhancement over the existing situation. The precise choice of materials can be agreed by means of a condition.
52. The remaining buildings in the western half of the site form a group, of differing forms and heights but strongly linked by an overall consistency of style and materials. The treatment of this group would help to establish a strong identity for the site that would represent a contemporary interpretation of the local sense of place.
53. Buildings B1 and B2 would largely succeed in their intention to provide a gateway to the site from the west. As an asymmetrical pair, stepped in plan and in height, they would provide a strong intervention in the street scene that would serve to mark the location as an important node in the movement network. **The Council's concerns about** excessive height of Building B1 at the back of the footway would not be borne out, and the active use of its ground floor unit could animate the small public space in front of Building B2.
54. The WVM calls for Walden Street to be re-opened as a key route, but there is no suggestion that this needs to be for vehicular traffic. Therefore, although restoration of the full width of the original street would help to restore the local grid, this is not a prerequisite. The proposed response of a constricted pedestrian way between buildings, that would open out to the wider former street space within the scheme is in my view a legitimate solution, with traditional precedents in Inner London. The opening between buildings and the presence of the new development beyond would be clearly visible from the west²⁵ and would not be uninviting or potentially unsafe, being faced by active uses on each side.
55. Building C would echo Buildings F and G in restoring a street frontage to Varden Street, in scale with Mellish House and the flank of Porchester House. In contrast to the existing blank perimeter wall, the row of house entrances would animate the street frontage, with the overhanging upper floors helping to define the semi-private zone above the basement lightwells. The front elevation would be pulled back to align with the main gable of the adjoining Zoar Chapel, whose setting between larger neighbours would consequently be **considerably improved, contrary to the Council's assessment**²⁶.
56. The lower portion of Building D1 would play a valuable role in restoring the line of Philpot Street, helping to reinstate the continuity between the listed terraces and Porchester House and turning the corner into Walden Street, with animated ground floor use. Despite the irregularity of the pattern of window openings, the vertical proportions and earthy tones of the masonry panels would provide a reasonably contextual response to the measured rhythm of the existing facades. However, even this lower element of the building would be considerably taller than the existing and would tend to visually overpower its neighbours. The addition of a further 5 storeys in the upper part of the building would in my view compound the uncomfortable relationship, with the flank of the upper floors appearing very prominently above the listed terraces in views south along Philpot Street²⁷. **Rather than "hold" the listed terrace**, as put by the appellants, the taller building would tend to dominate. Moreover, the

²⁵ THVIA Views 10 and 11

²⁶ THVIA View 8

²⁷ THVIA Views 17 and 19

- orthogonal shape of the upper element, only slightly set back, would tend to counteract the good work done by the lower floors in following the street line.
57. The existence of former larger scale buildings in this location provides some justification for a somewhat taller building, as part of the historic pattern of intensification outlined earlier in this decision. But other justification would be less convincing, **particularly given the proposed building's residential** rather than public or institutional use. Building E would be more than capable of marking the southern extent of the site, without any need to form a gateway, **and Building D1's contribution to mediating** the bulk of the RLH would be limited. It was also accepted at the Inquiry that the intention of providing graded mediation of height from the hospital down to Building C and back up to Building B1 would not be readily appreciated from the ground. In my assessment the treatment of the western side of the street would be an unduly assertive intervention.
58. The height of Building D1 would also loom large in views west along Walden Street²⁸. Although here it would serve to contrast with the intimate scale of the new street space, in the same way as Buildings B1 and B2 at the opposite end, its height and bulk would appear unduly dominant. However, the reinstatement of an unbroken frontage along the south side of the street would be highly beneficial, and the form of Building D2 as a terrace of houses entirely **appropriate to the context. I do not endorse the Council's concerns over the** treatment of the terrace, which would provide a striking contemporary interpretation of this form of housing as a counterpoint to the listed houses opposite. Although there would be a lack of ground floor openings other than entrance doors, the distinctive bay windows would provide good passive surveillance of the street.
59. The street would become more like a mews in character, but this would be **consistent with the pattern of change over time and with the street's new role** as a main pedestrian route. The slight narrowing of the street from its historic width would also be consistent with this new role. In that context, the introduction of some planting within the street space would provide a satisfactory link to the main Green Spine.
60. The delivery of the Green Spine as a major route from the town centre to the south and a focus for the Med City campus is one of the key objectives of the **WVM vision. The appellants' proposal, based on acclaimed** models of linear public spaces, would involve a lattice of paved paths interspersed by densely packed sustainable planting. It is clear that the proposal would need further refinement as the scheme progresses to accommodate evolving circumstances. In particular, the appellants' separate application for the renovation and restoration to full residential use of the listed terraces would include the recreation of small private gardens to the street²⁹. If approved, this would help greatly to relieve any tension between the sinuous nature of the main scheme and the formality of the Georgian-influenced terraces. There would also be possible inability to secure agreement with the RLH over the inclusion of the street space in its ownership to the front of Floyer House and the School of Nursing. Variations on the design to allow for these eventualities have not been shown, but on the basis of the evidence provided I have confidence that the

²⁸ THVIA View 20

²⁹ ID 18

treatment of the Philpot Street space could successfully meet the WVM aspirations for the Green Spine.

61. The landscape architecture evidence also gave confidence that the courtyard garden in the eastern side of the scheme could be an attractive well-used space.

Conclusion on design and character and appearance

62. The OAPF and the WVM set out a vision to transform the Whitechapel area. Delivery of the vision thus represents, in the terms of NPPF, an opportunity to “improve the character and quality of the area and the way it functions”³⁰. **The appeal proposal would deliver the site’s contribution to the vision and cannot be classed as “poor design” for which permission should be refused.**
63. The above analysis has necessarily taken each building and space in turn. But the appellants rightly stress the need to consider the scheme as a totality. Evidence for the Council has sought to suggest that this is an infill site, requiring a highly contextual approach to the sensitive insertion of new development. But the reality is that the vast majority of the site identified by the WVM is included, with the omission of the School of Nursing and the Wingate Building balanced by the inclusion of the lab block on Ashfield Street. The site does provide an opportunity for a comprehensive redevelopment.
64. For the reasons set out above, I find that, despite my reservations about the impact of Building D1, the design of the scheme as a whole would provide a considerable improvement over the site as it currently exists and would achieve the policy objective of transformational change while having sufficient regard to the character and appearance of the wider area.
65. For those reasons, I consider that the appeal proposal would comply with the building design criteria of LP Policies 7.6 and 7.7 and of CS Policy SP10 and MDD Policy DM26, with the placemaking objectives of LP Policies 7.4 and 7.5 and of CS Policy SP12 and MDD Policies DM 23 and DM24, and with the guidance of the OAPF and the WVM.

Heritage assets and their settings

Law and policy

66. In considering proposed development affecting a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the **area’s character or appearance**. A similarly worded duty under Section 66 of the Act requires special regard to be had to the desirability of preserving a listed building or its setting. Successive court judgments have re-affirmed the importance of these duties. Their application of these judgments to the **circumstances of an individual case means that** “considerable and importance and weight” must be given to the desirability of preservation or enhancement in any balancing of the merits of a particular proposal.
67. National policy guidance set out in the NPPF³¹ confirms the great weight in **favour of the conservation of “designated heritage assets”, such as** conservation areas and listed buildings. The particular significance of any

³⁰ NPPF paragraph 64

³¹ NPPF Chapter 12

heritage assets likely to be affected by a development proposal should be identified and assessed, including any contribution made by their setting. Any harm should require clear and convincing justification. A balanced judgement **should be made on the effects on any “non-designated heritage assets”,** such as buildings on a local list.

68. The concept of the setting of a conservation area is not enshrined in the legislation and does not attract the weight of statutory protection. The NPPF advises that the setting of a heritage asset can contribute to its significance. Opportunities should be sought for new development within conservation areas and within the setting of heritage assets that would enhance or better reveal the significance of the heritage asset. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably³².
69. The Council now seeks to place emphasis on this last point, but the corollary to this (i.e. that proposals that do not take such opportunities should be treated unfavourably) is not explicitly stated by the NPPF, and this paragraph does not introduce any separate test over and above the main test of balancing harm against benefits.
70. As relatively recently adopted plans, the heritage policies of the LP and the MDD, in particular LP Policy 7.8 and MDD Policy DM27, are consistent with the NPPF approach, and embrace the concept of balancing harm against public benefits.

Significance of heritage assets: direct effects

71. The heritage assets likely to be affected by the proposal are comprehensively catalogued in the THVIA. I am satisfied that the submission meets the standard of description of heritage significance sought by the NPPF³³. This was not contested by the Council at the time of the planning application, which is when any lack of analysis should have been rectified. The GLA also found the THVIA analysis adequate. The case now made that the appellants have somehow proceeded on a lack of understanding of significance is not borne out.
72. The appeal proposal would have direct effects on two CAs and on buried archaeology, as well as on the setting of a number of listed buildings and non-designated heritage assets.

Myrdle Street Conservation Area

73. The character of the Myrdle Street CA is of densely built housing from the late eighteenth century onwards fronting onto a tight grid of streets. The survival of so much of the original character of these streets gives the area its significance. The small portion of the CA to the east of Turner Street is not typical of the great majority of the area, being made up of apparently commercial buildings of the first half of the twentieth century rather than terraced housing, such as that directly opposite. These buildings therefore illustrate the evolution of the area over time with a greater variety of uses and larger scale.

³² NPPF paragraph 137

³³ NPPF paragraph 128

74. No.38 lies at the edge of this group. The building is not of great architectural interest, in a stripped rather Art Deco style, but it is a work by a named architect, whose other local works have been taken by the appellants as precedents for the contrasting treatment of Block E. However, it is of historic interest by marking the fact that Walden Street previously continued through at this point as part of the grid.
75. Replacement of the building by a block (Building B2) that would not acknowledge the former corner would mean the loss of that historic interest. Whatever the design merit of the new building, its set back location would expose part of a blank gable to No.34 that would be uncharacteristic of that building. I consider that there would be some minor harm to the significance of the CA, ranked at the **lower end of "less than substantial"**.

London Hospital Conservation Area

76. The London Hospital CA is predominantly made up of original and nineteenth century RLH buildings, together with some terraces of housing and the former church. Its significance lies in the historic importance of the RLH and its growth and expansion, together with the domestic environs it spawned. **The Council's published CA Appraisal notes the need for re-assessment once the new RLH complex is complete. But as a result of development already carried out, the short terrace of houses on Ashfield Street, and No.80a behind them, have become rather isolated from any other historic fabric in the CA area.**
77. The terrace retains its domestic character, but No.80a is atypical. It has minor historic interest as an example of commercial development of a backland plot. Its replacement by the low-rise domestic Building Ha would retain the dense pattern of development and would preserve the character of this part of the CA.
78. The new treatment of the Philpot Street space to form the Green Spine would also lie mainly within the CA. The street space here has previously been poorly landscaped in a nondescript fashion. The proposed new treatment would not directly reflect historic precedent, but would have the potential to form a contemporary set piece that would enhance this part of the CA.

Philpot Street burial grounds

79. The eastern half of the site includes two burial grounds associated with former chapels, and not used since the mid-nineteenth century. The Greater London **Archaeological Advisory Service ('GLAAS') has advised that the burials should be regarded as a regionally significant undesignated heritage asset of archaeological interest. The appellants have explained why complete re-design to avoid disturbance of the remains would not be feasible, and the main parties have agreed that impacts could be mitigated by full recording of the area of interest, to be secured by a condition, which GLAAS had advised should be imposed in the event of permission being granted. In this instance, I am satisfied that the full investigation of the site, supplemented by local identification of the site's interest, would be the most appropriate outcome.**

Significance of heritage assets: setting effects

80. I agree with the Council that the heritage assets whose settings would be most directly affected are the Grade II listed Philpot Street and Walden Street terraces and pair of houses at 46-48 Ashfield Street.

43-69 Philpot Street

81. The listed Philpot Street terraces are slightly later in date than their “Georgian” style suggests. They are of great historic interest as evidence of the original development of the hospital estate, with their scale and matching treatment giving a good indication of the status intended for Philpot Street compared to other more modest streets nearby. Their architectural interest derives mainly from their well-proportioned fronts, which combine with very finely detailed elements such as window openings and frames to produce a great delicacy of effect.
82. **While the side streets form part of the terraces’ setting, the most important** context is provided by Philpot Street itself. The single list entry for the two terraces notes their symmetry to each side of Ashfield Street. To that extent, they have a degree of self-containment that does not rely on continuity with adjoining buildings, and the majority of their significance rests in the terraces themselves. There is also the historic evidence that the terrace form did not continue in matching form to the south of Walden Street. However, as street-front buildings, the **terraces’** significance does depend to a degree on the setting provided by the other frontage buildings.
83. At present the form of Philpot Street is eroded on the east side and particularly to the south of Walden Street. As outlined earlier, I find that Building E would start to repair the street enclosure and that its height and form would be so distinctive that it would be seen as a stand-alone feature that would not adversely affect the setting of the terraces diagonally opposite.
84. On the west side, despite the poor alignment of Dawson House, that block and the neighbouring Porchester House do maintain some continuity, allowing the listed terraces to be appreciated in a relatively unbroken and similarly scaled frontage. As outlined earlier, the proposed lower part of Building D1 would have some considerable merit in reinstating the original street line, but would itself appear uncomfortably taller and greater in scale than the listed terrace, while the value of the improved street enclosure would be compromised by the height and assertive form of the upper part of the building.
85. In my assessment, there would be an adverse effect on the setting of the listed terraces. Nevertheless, they would retain their form and integrity of treatment, and would continue to illustrate the character of the original street. The harm to their significance would be considerably less than substantial.

39-49 Walden Street

86. The Walden Street terrace forms a continuous group with the Philpot Street terraces. It shares their historic interest of illustrating the original pattern of development of the hospital estate, but in the form of a much more modest **street. The terrace’s architectural interest is also considerably less, without the** same ambition to impress or quality of façade treatment. However, it remains a terrace of some quality that together with its rebuilt non-listed neighbours makes a strong street frontage.
87. The setting of the terrace has been adversely affected by the loss of its facing terrace on the south side of the street and the open aspect to the rear of the housing blocks, and also to the rear of Clare Alexander House closing off the

west end of the street. The immediate setting makes negligible contribution to the heritage significance of the terrace.

88. The insertion of a row of houses in Building D2 would reinstate the form of the street, albeit at a slightly closer distance. But this benefit would be diminished by the adverse impact of the height and dominance of Building D1.
89. Beyond Building D1, current views out of the street are enclosed by the bulk of John Harrison House. Buildings E and I would form taller and wider replacements in the view but would be clearly appreciated as contrasting elements, set away from the terrace. In the other direction, the opening of a gap between slightly taller buildings at the west end of the street to allow pedestrian access would also be an improvement over the existing situation. The character of the terrace would not be adversely affected by the more enclosed and proposed softer treatment of the street space.
90. Taken together, the changes to the setting of the terrace would not adversely affect its significance other than the intervention of Building D1, which would cause a minor degree of harm, considerably less than substantial.

46-48 Ashfield Street

91. As the surviving remainder of a terrace on Ashfield Street continuous with the Philpot Street group, this pair of houses also shares the historic interest of illustrating the original pattern of development of the area. Although much smaller in size, the houses also share some of the delicacy of treatment of their Philpot Street neighbours. The **buildings' setting as part of a generally small-scale street scene** contributes to their significance, but the immediate setting has been adversely affected by the removal of the adjoining houses, which has left No.48 with a crude blank gable, exposed to view by the setback frontage of Horace Evans House.
92. As earlier outlined, I consider that the siting of Building A to abut No.48, hiding the gable and recreating the street frontage, would be a significant benefit. I acknowledge that the new building would be taller than its neighbour and of a slightly larger, but still domestic, scale. Its lower window-wall ratio would contribute to a heavier appearance. But the Council's **assessment of the building as "elephantine" in quality cannot be sustained**. Subject to the final choice of materials and details, the building would make a successful addition to the street scene.
93. In the other direction, Building I would reinforce the change to the wider setting already made by the RLH. The changes to setting would not adversely **affect the buildings' significance**.

Other listed buildings

94. The effect on the setting of other listed buildings would be considerably less direct than on those considered above. In general the issue would be of taller buildings appearing above the roofscape or in sporadic views along east-west streets. As I have outlined, I agree with the appellants that the assessment of the impact of such views must be balanced by the appreciation of the presence of the RLH building, even if it is not prominent in a particular framed view. An example is the listed group at the west end of Newark Street, whose significance is reinforced by their immediate setting next to St Augustine's church, but not greatly by the wider setting to the east. The appearance above

the roofline of the rather elegant top of Building I, perceived as a foil to the RLH, would change the setting but without detracting from significance.

95. The evidence does not indicate any other listed building where an adverse impact on setting would have a harmful impact on heritage significance.

Conservation areas

96. The changes to the setting of the surrounding conservation areas would also principally relate to the appearance of the taller proposed buildings in relatively remote views.
97. The effect of these changed views on the main part of the Myrdle Street CA would not be harmful to its character, which would be robust enough to absorb the impact of tall buildings in views across the site from the west, just as it already has the effect of views of the RLH. The character of the CA has already adapted to changes within the CA itself such as the School of Medicine and Blizzard Building, which would be key elements in the view of Buildings B1 and B2 along Walden Street. There would be no further harmful effect.
98. The Ford Square Sidney Square CA is centred on the two green spaces and the tight streets to the north. The significance of the area derives for the relatively intact original quality of the squares themselves and of the terraced housing surrounding and linking them. As outlined earlier, views out from the CA are already heavily influenced by the dominant form of the RLH block and by the large scale of some of the ancillary buildings. The inward-looking serenity of the two spaces would not be overcome by any adverse impact, and would not be harmed by the presence of further tall buildings in these views. The character of the CA would be preserved.
99. Many views of the appeal proposal from the main body of the London Hospital CA would be screened by the RLH complex, which would also be a prominent component of all other views. However, the harm to the setting of the Philpot Street terraces due to the relationship with Building D1 would also have a harmful impact on the significance of the CA, but at a level very much less than substantial.

Non-designated heritage assets

100. Non-designated heritage assets in the vicinity of the site mainly comprise some pockets of locally listed terraced housing, including 39-43 Ashfield Street facing Building A, and 67-81 Cavell Street, backing onto Building Ha. All of these buildings are located within a CA and no additional issues arise in respect of the effect of change to setting on their heritage significance, which would not be harmed. The same would be true of other buildings not formally included on the local list but identified by the SCG as being of heritage interest. These would include Zoar Chapel, whose setting would be improved by the alignment of proposed Building C, and 80-82a Ashfield Street, which would be adjoined by Building Hb on the street front and by Building Ha to the rear. These houses are of interest as a slightly later type of housing to most within the immediate area, and slightly larger in size. The lab building to be replaced makes little or **no contribution to the houses' significance**. Building Hb would be taller than the houses and would provide an intermediate step up to the height of Building I, but neither building would overwhelm its neighbours, whose significance would not be harmed.

Conclusion on heritage assets and their settings

101. The direct impact on the fabric of heritage assets would be very limited. I have concluded that the loss of 38 Turner Street would cause very minor harm to the significance of the Myrdle Street CA. The harm to the archaeological interest of the burial grounds could be appropriately mitigated by full investigation and recording.
102. The appellants have argued that the development of London as a world city has necessarily involved the successful co-existence of heritage assets with major re-development. Whitechapel is clearly an area of the city with strong heritage interest, which has been sustained despite considerable change to the east and west. The area itself is now identified by the Council for transformational change, with improved public transport. There will inevitably be a tension between the imperative for higher densities and the need to conserve heritage value. But in general, I consider that the heritage assets in and around the appeal site would be able to co-exist with the proposed development despite the very high degree of change that would result.
103. The national Planning Practice Guidance advises that substantial harm to significance is a high test, so that it may not arise in many cases³⁴. Those cases would be likely to involve physical harm to fabric. In the present case, the Council have consistently argued that harm to significance of many of the affected heritage assets due to anticipated changes in setting would be at the **top end of "less than substantial"** (i.e. **just below "substantial"**). In my view this is based on a considerable overestimate of the contribution to the significance of those assets made by setting and the potential for harm from the appeal proposal.
104. In fact I have found only one other instance of less than substantial harm, in relation to the impact of Building D1 on the significance of the Philpot Street and Walden Street terraces. These instances of harm must be weighed against the anticipated public benefits, to which I return below.

Living conditions: neighbouring residents

105. Ensuring a good standard of amenity for all existing occupants of land and buildings is one of the core planning principles of the NPPF³⁵. This is reflected in LP³⁶ and Local Plan³⁷ policies. The appeal site is bordered by residential uses along the eastern and southern edges of the urban block, on Cavell Street and Varden Street, but also within the block in the Walden Street terrace and along Philpot Street in some of the terraced houses and in the flats at Porchester House.

Daylight

106. The ES contains an analysis of daylight and sunlight impacts of the proposed development³⁸, which was updated during consideration of the planning application, and the **Council's decision on the** application was informed by an independent appraisal of that report. For the appeal, the appellants

³⁴ PPG paragraph 18a-017-20140306

³⁵ NPPF paragraph 17

³⁶ LP Policies 3.5, 7.6, 7.7

³⁷ CS Policies SP10, SP12; MDD Policy DM25

³⁸ ES Chapter 7: Daylight, Sunlight and Overshadowing, with addenda

commissioned a new full study, whose calculations of predicted effects were used in evidence to the Inquiry by both main parties.

107. It is agreed that the starting point in the assessment of the effect on **residents' living conditions arising from daylight and sunlight should be the** Building Research Establishment 2011 publication *Site layout planning for daylight and sunlight: A guide to good practice*, ('the BRE guide') whose author gave evidence at the Inquiry on behalf of the Council. Use of this methodology is demanded by the supporting text to MDD Policy DM25³⁹ and by the Mayor of London's Housing SPG of March 2016.
108. The BRE document offers guidance on generally acceptable standards of daylight and sunlight, but advises that numerical values are not to be rigidly applied and recognises the importance of the specific circumstances of each case. Inner city development is one of the examples where a different approach might be justified. This is specifically endorsed by the Housing SPG, which calls for guidelines to be applied sensitively to higher density developments, especially in (among others) opportunity areas and accessible locations, taking into account local circumstances, the need to optimise housing capacity, and the scope for the character and form of an area to change over time. This approach is clearly relevant to the appeal site. **The area's** identification for transformation through high density housing development indicates high scope for its form and character to change over the short and longer term. I agree with the appellants that blanket application of the BRE guide optimum standards, which are best achieved in relatively low-rise well spaced layouts, is not appropriate in this instance.
109. The SPG advises that the daylight impact on adjacent properties should be **assessed drawing on "broadly comparable residential typologies within the area and of a similar nature across London"**⁴⁰. The comparable typologies put forward on behalf of the Council primarily comprise low-rise traditional street profiles, based on one location close to the site and notional reconstructions of streets bounding the site. The precise measurements used are challenged by the appellants, but more important is that the locations modelled do not cover areas of significant redevelopment. By contrast, the comparable areas analysed by the appellants include a range of examples comprising both traditional urban streets and recently permitted areas of significant development spread across Central London.
110. **I acknowledge the Council's reservations about this** exercise, including the subjective nature of the **sites'** selection, and their possible difference in context from that of the appeal site. There is also limited information on the extent to which any daylight harm might have been balanced by other benefits in the decision to grant permission for the recent schemes. An exception to this is the **Whitechapel Central site, for which details of the Council's own decision making** were provided⁴¹. **I am also aware of the danger of a "race to the bottom"**, if subsequent decisions were to whittle away at desirable standards.
111. Nevertheless, in my view the comparable typologies analysed by the appellants come much closer to the intention of the SPG **than the Council's** reliance on locally found conditions, without any element of new development

³⁹ MDD paragraph 25.5

⁴⁰ SPG paragraph 1.3.46

⁴¹ ID 5

at higher density. The studies are useful in providing a relatively broad brush view of residual daylight levels likely to be found on completion of development similar in scope to the appeal proposal, as well as of levels in valued historic settings.

112. The figures show that a proportion of residual Vertical Sky Component (**VSC**) values in the mid-teens have been found acceptable in major developments across London. This echoes **the Mayor's** endorsement in the pre-SPG decision at Monmouth House, Islington⁴² that VSC values in the mid-teens are acceptable in an inner urban environment. They also show a smaller proportion in the bands below 15%. Even if there were some discrepancy in the **appellants' figures for this lower band** at Whitechapel Central, which is disputed, the VSC outcomes for the appeal proposal would in general be very similar to those of the other major schemes. The appeal proposal would therefore appear to be in compliance with the LP as amplified by the SPG and as it is being interpreted by the Mayor. The GLA responses to the planning application did **not raise any concern about neighbours' amenity**.
113. I acknowledge that a focus on overall residual levels could risk losing sight of individual problem areas. It is accepted that light is only one factor in assessing overall levels of amenity, but I consider that the trade-off with other factors, such as access to public transport or green space, is likely to be of more relevance to an occupier of new development than to an existing neighbour whose long-enjoyed living conditions would be adversely affected by new buildings. However, I also consider that Inner London is an area where there should generally be a high expectation of development taking place. This is particularly so in the case of the appeal site, where the WVM and the OAPF have flagged the desirability of high density development. Existing residents would in my view be prepared for change and would not necessarily expect existing standards of daylight and sunlight to persist after development.
114. Turning to the buildings of greatest concern to the Council with regard to loss of daylight, the evidence shows that at the rear of 67-79 Cavell Street, where the use of the affected rooms is unknown, residual VSC levels would be in the mid-teens, other than in the house partly set behind the adjoining Wilton Court to the south, where the ground floor figure would be slightly lower. At Wilton Court itself, all living room windows and the smaller number of bedrooms would retain VSC levels in the mid- to high-teens, except to one ground floor living room close to an internal corner. I agree with the appellants, as the Council appear to have accepted at Whitechapel Central, that the SPG indicates that kitchens smaller than 13sqm should not be regarded as habitable rooms for this exercise.
115. That would also apply to the small kitchens set behind overhangs, whose windows would be the most affected at Silvester House and Mellish House. The first and third floors, which would mimic the effect without the overhang, would show residual VSC values virtually all in the mid-to upper-teens, with some above 20%.
116. At Porchester House, windows to some rear-facing small kitchens and bedrooms would experience significant reductions in VSC values owing to the tight enclosure by the flanks of Buildings C and D1. The BRE guide advises that light to bedrooms is less critical. In this case, as these would be small second

⁴² ID 6

bedrooms and the living room and main bedroom of each flat would continue to receive reasonably good light, the harm to living conditions would not be unacceptable, and this was acknowledged in the officer report on the planning application.

117. Floyer House provides short-term accommodation, which I accept is less sensitive in daylight terms, and is in any event intended for redevelopment. But other than for a very few rooms, reasonable VSC values would be retained. The Walden Street terrace would no longer be faced by open space and its front rooms would experience significant reduction in light, but above basement level retained VSC values would be in the teens.

118. **The VSC calculations are supplemented by No Sky Line ('NSL') and Average Daylight Factor ('ADF') data, which tend to confirm that light levels would remain adequate to provide acceptable living conditions.** The Council acknowledge that losses to other buildings would be of lesser significance, and I have not found any, either alone or cumulatively, that would amount to an unacceptable impact.

Sunlight

119. With regard to sunlight, the number of existing rooms potentially affected would be considerably lower, owing to the need only to consider windows facing within 90 degrees of due south. The BRE guide also advises that effects on bedrooms and non-habitable rooms are of reduced significance.

120. The appellants submit that their analysis shows that only 11 of 349 rooms would raise potential concern, but 7 of these are basements. The parties agree that the most significant effects would be on the west-facing rear elevations of 67 Cavell Street, where windows are already partly screened, and living rooms at Wilton Court. The Council also draws attention to a room the rear of 43 Philpot Street.

121. As in the matter of daylight, the guidance on loss of annual and winter sunlight is not to be rigidly applied. Emphasis on the level of retained sunlight rather than degree of change would be justified. On balance, I accept the **appellants' conclusion the proposal's overall effect on sunlight would not be significantly adverse.**

Other impacts

122. The officer report on the planning application did not raise any detailed concerns about adverse effects on existing residents due to loss of outlook or privacy, but noted that adverse effects on daylight and sunlight could be an indicator of over-intensive development. However, the effects on outlook and privacy from Buildings B1, C, D1, E, F, G, Ha, Hb and I were examined and found acceptable.

123. I consider this to be a fair assessment and do not endorse the concerns newly raised in evidence to the Inquiry. In particular, I do not agree that Building D1 would unacceptably impact on outlook from the Walden Street houses and cause overlooking to the rear of these and houses on Ashfield Street and Philpot Street. Any residential gardens in this block are likely to be already overlooked and any marginal increase, including from Building B1, would still be in keeping with the dense inner urban context. The same would apply to any overlooking from Buildings E and I, which because of their height,

would potentially overlook a broad swathe of housing. Because of its projecting base and curved form, Building E would not appear over-dominant from Joscoyne House.

Conclusion on living conditions for neighbouring residents

124. LP Policy 7.6Bd requires new development to avoid causing “unacceptable harm” to amenity. MDD Policy DM 25 seeks to protect and where possible to enhance the amenity of surrounding residents, and to avoid “an unacceptable material deterioration” of lighting conditions in existing habitable rooms and “an unacceptable loss of privacy...or unreasonable overlooking...or sense of enclosure”.
125. I conclude that the proposal would result in some significant individual reductions in daylight and sunlight levels, but that this is almost unavoidable in achieving the policy requirement for high density development in a confined urban setting. The new buildings would for the most part be comparable in height with the existing and would re-define traditional street frontages. Retained levels of daylight and sunlight would be adequate and comparable with existing and emerging urban conditions. The effects would appear very comparable with those recently allowed by the Council at Whitechapel Central. There would be minimal adverse losses of outlook and increases in overlooking. Taken as a whole, the proposal would not result in unacceptably harmful effects on living conditions and would comply with the development plan in this respect.

Living conditions: future residents

126. LP Policy 7.6Bf requires new development to provide high quality indoor and outdoor spaces. MDD Policy DM25 seeks to provide for amenity of future residents in similar terms to those for existing residents.

Daylight and sunlight

127. The need for flexibility in applying BRE guidelines applies equally to the consideration of light levels in the proposed accommodation and outdoor spaces. The Housing SPG requirement to consider broadly comparable residential typologies as well as local circumstances remains equally appropriate.
128. The **appellants’ analysis** suggests that 77% of all proposed habitable rooms would comply with the relevant minimum standards of ADF recommended by BS 8206-2⁴³ and referenced in the BRE guide. This would rise to 84% if shared living/dining room/kitchens were rated at the lower standard of 1.5% ADF, which I consider a reasonable approach. I also accept that small studios for staff and students, particularly those for short-term occupation, can reasonably be tested against a lower standard. I note that overall NSL compliance would be 82%.
129. The Council draw particular attention to Building E, where balcony overhangs **would result in reduced daylight to some bedrooms. I accept the appellants’** case that this is an instance where a future resident would balance the amenity offered by the balcony with the lower daylight in the bedroom, and would not regard the accommodation as sub-standard.

⁴³ BS 8206 Lighting for buildings: Part 2. Code of practice for daylighting

130. The reduced levels in accessible flats in Buildings F and G would also appear to be due to windows being set behind recessed south-facing balconies. Again there would be a trade-off between the enhanced external space and privacy on the street front offered by the layout, against reduced daylight levels. Even though it should not be assumed that a wheelchair user would necessarily be housebound, I agree that this would be an adverse consequence of the location and treatment of the Varden Street frontage. However, I also recognise that in a context of tight urban streets the VSC necessary to achieve high ADF levels will in places be difficult to achieve. In Block C, it appears that accessible studios would have lower light than their neighbours because they would be at an internal corner, but they would benefit from being next to the lifts. **The appellants' analysis shows that most units in Block C would comply fully if balconies were not provided, which is a design choice.**
131. **The Council's view is that the proportion of rooms meeting the BS standard** would be unusually low in a new development, particularly one with tall buildings. However, **the appellants' comparison data** suggests that when measured against the other broadly comparable urban redevelopment schemes, the appeal proposal scores remarkably consistently. Whitechapel Central would be only marginally more compliant, with 84% of rooms meeting the ADF target, or 87% with the lower target for shared space. **The Council's** assessment is based on the undoubted experience of its expert adviser, but it has not produced evidence of comparable new high density development in a tight urban context where significantly better outcomes have been achieved.
132. With regard to sunlight provision in the proposed accommodation, the appellants conclude that 72% of the relevant rooms would meet the BS recommended target **for Annual Probable Sunlight Hours ('APSH') and 91% the winter target. The Council's analysis focuses on the performance of main living rooms**, to conclude that only 47% of these would meet both annual and winter targets, and a further 14% winter only. However, when account is taken that a further 33% would be north-facing, the percentages appear considerably more successful.
133. The role of recessed balconies appears to be a factor in the annual performance, with attention also being drawn to the need to avoid excess solar gain, which is not factored in to the BRE guide, while the balconies themselves could continue to receive direct sun even when the interiors did not.
134. It is accepted that sunlight to the open space on the site as a whole, which is largely made up of the former street spaces of Philpot Street and Walden Street would meet the BRE guideline for sun on the ground at March 21. The courtyard space surrounded by the buildings to the east of Philpot Street would be well shaded across its southern half on that date and during the colder months of the year. **The Council's** concern in evidence was based on an assumption about the location of play provision, but the space identified by the appellants for play (comprising the central lawn and a soft paved area with rock features) when tested would address that concern and would comprise both shaded and sunlit zones in accordance with good practice. The small communal spaces to the rear of Buildings B1 and B2 would also be quite well shaded but their use by residents would not be unduly compromised. In terms **of residents' living** conditions much would depend on the amenity offered by the successful layout and management of the Philpot Street space, but the

overall provision of sunlit space should be adequate. The comparison with the other permitted schemes would be quite consistent.

135. MDD Policy DM25 1c aims to ensure “adequate levels daylight and sunlight for new residential developments”. The supporting text states that the Council “will seek to ensure that the design of new development optimises the levels of daylight and sunlight”⁴⁴. This implies recognition that daylight and sunlight are matters to be balanced against other issues. Given the acceptance of very similar performance at Whitechapel Central, and the particular circumstances arising from design decisions, I consider that the appeal proposal would provide adequate levels of daylight and sunlight.

Other impacts

136. Only limited concerns in respect of outlook and overlooking were raised in the officer report. These have been supplemented in evidence to the Inquiry.
137. With regard to outlook, the Council raises specific concern about units within Building C. But the two rooms in each of the duplex units looking into a front basement lightwell would be secondary bedrooms, so that outlook would be less critical and the proposed arrangement would be adequate. Studios on upper floors would directly face the rear of Building D2, but not at an unacceptably close distance, and would have their privacy enhanced by the recessed balcony detail. The private gardens between these two buildings would be overlooked, from each building and by some windows to the rear of Building D1, but to a degree consistent with the urban context.
138. Windows dependent on outlook onto the space between Buildings B1 and B2 would again be second bedrooms, with other rooms also facing to front or rear. The impact of confined outlook would therefore be less critical. While the space would be tight, the outlook would not seem oppressive to occupiers. However, despite some staggering of window positions, there would quite direct overlooking, which might require reliance on blinds or curtains.
139. Ground floor units in Buildings F and G would adjoin the footway but this relationship is not uncommon in the surrounding area. Being raised above street level and with main living room windows set behind enclosed balconies would ensure that their privacy would not be compromised. Ground floor windows at Building A would also be raised to improve privacy.
140. The west elevation of Building Ha would be directly adjacent to the rear of Building Hb. Mutually disturbing overlooking could arise but could easily be avoided by use of curtains or blinds in either or both buildings, or by treatment of the rear windows of Building Hb. Access to the communal space from the upper units of this building would be rather circuitous, even if passage through Building I were allowed, but would not mean a serious failing in overall living conditions.
141. While there would be some instances of less than ideal relationships, taken as a whole the proposal would not result in unsatisfactory outlook, privacy or access to open space.

⁴⁴ MDD para 25.5

Conclusion on living conditions for future residents

142. For the reasons set out above, I conclude that the proposal, despite certain localised weaknesses, would result in a good overall standard of amenity for future residents, as advised by national policy, and would comply in this respect with LP Policy 7.6 and MDD Policy DM25.

Other matters

Housing land supply

143. **The appellants' initial case had claimed support from a concern that the Council could not demonstrate a five-year supply of deliverable housing land, in accordance with NPPF policy requirement⁴⁵. Particular criticism was made of the Council's reliance on a set of confidential sites seen as likely to come forward for development.** The Supplementary SCG agreed at the Inquiry addresses the matter. **While the appellants continued to question the Council's estimate of available land supply, it was agreed that this did not merit detailed interrogation at the Inquiry, but that substantial weight should be given to the provision of additional new housing, irrespective of the local land supply position.** I accept the agreed position.

Affordable and specialist housing

144. The proposal would provide 343 units of conventional housing (class C3) to **replace the existing 43 units (mainly originally nurses' accommodation) on the site.** Of these 57 units would be for social rent. In addition, there would be 168 specialist units (class C2), with either short- or long-term occupancy restricted to RLH, QMUL and NHS-related staff and students and to patients and their families.

145. The affordable units would equate to 21% of habitable C3 rooms, against a policy target of 50%⁴⁶. But if the specialist units are also taken into account, as the appellants suggest, the proportion of affordable units goes up to 44% of the total units or 33% by habitable room.

146. The re-provision of specialist housing is required by development plan policy⁴⁷ but the Council accept that the proposed accommodation would be of **higher quality and space standards than the existing. The proposal's viability** was assessed at application stage and was found to be the maximum viable provision. It has now been agreed in the Supplementary SCG that, **notwithstanding the Council's endorsement of the Mayor of London's Affordable Housing and Viability SPG of August 2017, the appeal proposal represents a unique mix of affordable and specialist housing whose viability would be put at risk by any revision to predicted returns, which would require a full re-assessment.** I accept that the proposal would comply with the development plan policies in respect of affordable and specialist housing provision.

Wingate Building

147. Objections to the planning application and to the appeal have been raised by QMUL as operators of the research facility in Wingate House at the junction of Ashfield Street and Turner Street, between Building A and Building B1.

⁴⁵ NPPF paragraph 47

⁴⁶ CS Policy SP02

⁴⁷ LP Policy 3.14; MDD Policy DM5

Although the representations made are not entirely consistent, the concerns fall broadly into 2 areas: firstly on the risk of complaints from future residents having the potential to impact on the operation of the facility, and secondly the potential for adverse impacts from construction activity.

148. The importance of the facility to the Med City initiative has been specifically endorsed by the GLA in its responses to the application, and I have no reason to doubt the value of the work carried on there and the need to minimise disruption to it. However, the balance of the evidence suggests that there would not be an undue risk of complaints due to noise, including any night-time emergency generator use, and that this matter could be addressed by a condition. This is an environment where the RLH is busy 24 hours per day and future tenants are to be advised of the likelihood of some disturbance. Similarly, on the issue of odours arising from research activity, the studies carried out suggest that there would not be significant risk of nuisance and complaint. Any patient privacy issues appear capable of being dealt with by normal management means.
149. With regard to construction impacts, the balance of the evidence suggests that the use of suitable techniques, for example in the placement of piles, could avoid harmful impacts. Provision can be made for full involvement of neighbours, particularly QMUL, in liaison procedures over construction environment management processes.
150. Therefore, I agree with the main parties that, subject to such arrangements and to necessary conditions, impact on the operation of the Wingate Building would not sustain a reason to reject the appeal proposal.

Planning obligation

151. Under the completed Section 106 agreement, the appellants and other landowners and mortgagee provide covenants in respect of the provision, disposal, tenure, occupancy and rent levels of the affordable housing, and the provision, occupancy and rent levels of the specialist housing. A review mechanism would allow any enhanced value to be captured and directed to improved affordable provision.
152. Further covenants would include: financial contributions amounting in total to £559,253, towards employment and skills training, carbon offset projects and monitoring of the obligation; payment of the Mayoral Community **Infrastructure Levy ('CIL')** and any outstanding contribution to Crossrail; ensuring the development would be car-free; support for local employment and purchasing initiatives; submission and implementation of a Travel Plan; the provision and maintenance of publicly accessible areas; provision of apprenticeships during the construction and occupation phases of the development targeted at local residents; compliance with a Code of Construction Practice; good neighbour provisions, comprising liaison with RLH and QMUL, and advice to occupiers on the noisy nature of medical uses; delivery of highway works. The Council covenants to apply financial contributions to the identified purposes or to return them.
153. The agreement is supported by Summary Justification Statement⁴⁸ which sets out the policy basis for each of the covenants and their compliance with

⁴⁸ ID 24

Regulations 122 and 123 of the CIL Regulations⁴⁹. The obligation was amended during the course of the Inquiry to confirm that carbon offset projects would not comprise infrastructure within the meaning of the Planning Act 2008 and the Regulations, so that the issue of pooled contributions would not arise.

154. Subject to that clarification, I am satisfied that that each of the covenants would be fully supported by adopted LP or Local Plan policy as amplified by supplementary guidance, and would meet the tests for obligations set by Regulation 122(2) and echoed by the NPPF⁵⁰, in that they would be necessary to make the development acceptable in planning terms, would be directly related to the development, and would be fairly and reasonably related to it in scale and kind. The obligation can therefore be taken into account in a decision to allow the appeal proposal.

Balance of considerations

155. The Council acknowledges that the proposal would result in a number of public benefits, but questions the weight to be afforded to some of these.

156. In my view, the foremost public benefit would be that the proposal would deliver the transformational change to the appeal site sought by adopted planning policy and supplementary guidance, and would play a key role in the delivery of the WVM and OAPF vision for Whitechapel. The replacement of existing mediocre buildings and poorly presented public realm by carefully considered new buildings that would re-create street edges and define open spaces would be a significant benefit. In particular the establishment of a significant length of the Green Spine would be likely to provide a public space of high quality that would start to achieve the desired objective of a memorable green route through the heart of the WVM area, animated by well located retail/food uses. Access to the spine route would be reinforced by the re-opening of Walden Street as an attractive pedestrian link, would help to stitch the site back into the network of surrounding streets.

157. It is common ground that the provision of new housing should be given substantial weight. The provision of affordable housing to the maximum viable level can also be taken as a positive benefit. To this must be added the very significant benefit of the provision of specialist housing to an acknowledged improved standard. While the re-provision of specialist housing is a policy requirement, the key benefit here would be the placement of the accommodation within an affordable rent regime, which does not apply at present, and the limitation on occupancy to health-related staff and students. In particular, the ability for existing tenants to move onto the new regime would be extremely useful in maintaining continuity of experienced staff. The new specialist housing would thus make an important contribution to the achievement of Med City objectives for the area.

158. While the actual take-up has yet to be finalised, the provision of new space suitable for office or research use must also count as a potential Med City benefit.

159. Set against these would be the one instance where I have taken issue with design decisions, in respect of adverse effect on the setting of the Philpot Street and Walden Street terraces. Even allowing for the considerable weight to

⁴⁹ Community Infrastructure Levy Regulations 2010 (as amended)

⁵⁰ NPPF paragraph 204

be given to the desirability of preserving listed buildings and their settings, and the preservation and enhancement of conservation areas, I find that the public benefits of the proposal would significantly outweigh this heritage harm and the minor harm arising from the loss of 38 Turner Street and the Philpot Street burial grounds.

160. The appeal proposal would provide a striking intervention comprising a variety of memorable buildings and spaces. Taken as a whole, I consider for the reasons set out above that the proposal would comply with national and local policy, and that the balance lies in favour of its approval.

Conditions

161. **A draft schedule of conditions was included with the Council's evidence and** was subject to negotiation between the parties during the course of the Inquiry. By the close of the Inquiry broad agreement had been reached on a revised schedule, and further amendments were put forward during discussion at the event. Subject to some of those and some other amendments in the interests of greater precision and enforceability, I consider that the proposed conditions are reasonable and necessary and would comply with the tests set out in the NPPF⁵¹.
162. In addition to the standard condition on commencement of development, a condition is needed to specify the approved plans in the interests of certainty and to confirm the approved form of development. Removal of permitted development rights is required to ensure that matters critical to the approval of the development are not subject to later uncontrolled change.
163. Approval of a phasing plan is necessary to ensure that development is carried out in a logical and timely manner in order to secure delivery of planned outputs and to minimise adverse effects on local residents and infrastructure. Minimisation of the same effects justifies approval and implementation of demolition and construction environmental management plans, both overarching and for each phase of work.
164. The protection of **neighbours'** living and working conditions also requires planning conditions to control hours of construction work, dust management, and piling techniques,
165. Conditions are needed to protect the living conditions of future residents with regard to noise including plant noise, treatment of cooking extract ventilation, availability of lifts, remediation of contamination, wind mitigation measures, implementation of security measures, approval of a delivery and servicing plan, and opening hours for the shop and food units. A mix of accessible units is necessary to provide for the needs of all sections of the community.
166. Approval of full details of drainage, including SuDs measures, is necessary to ensure the satisfactory drainage of the site and prevent flooding. Other conditions needed to maintain and improve the quality of the local environment include those on water supply impact, biodiversity enhancement and protection of nesting birds, air quality from mechanical extraction, waste management, and energy efficiency

⁵¹ NPPF paragraph 206

167. In order to ensure the quality of the permitted development and protect the character and appearance of the area, conditions are needed on the approval of materials and building details, including shopfronts, on the design and storage of any cleaning gantries, and on final details of landscape design and of management of landscaped areas.
168. In order to mitigate harm to heritage significance, a condition is needed to secure a scheme of archaeological investigation and the subsequent recording of any excavation, with publication of results. The need to better reveal the significance of heritage assets justifies the provision of a memorial marking the the Philpot Street burial grounds.
169. It was agreed at the Inquiry that a draft condition on the size of commercial units should be replaced by one clarifying the permitted uses as A1, A2 or A3, in the interests of certainty, and also to require approval of any outdoor areas **to be used ancillary to the use of the shop units, in order to protect residents' living conditions and ensure free flow of pedestrian traffic.**
170. Conditions on the provision of cycle parking and the provision and restricted use of car parking are needed to promote sustainable modes of travel.
171. Details of crane usage are required in the interests of public safety, especially given the regular use of the helipad on the RLH roof.

Conclusion

172. For the reasons set out above, and having taken account of all matters raised in writing and at the Inquiry, together with the terms of the Section 106 agreement, I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out in the attached schedule.

Brendan Lyons

INSPECTOR

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DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 **Addendum to Dr Littlefair's** Proof of Evidence
- 2 Opening Submissions on behalf of the Appellants
- 3 Opening Submissions on behalf of the Local Planning Authority
- 4 Report to Strategic Development Committee 24 August 2016:
Application No.PA/15/01789 Whitechapel Central site (extract)
- 5 Report to Strategic Development Committee 24 August 2016:
Application No.PA/15/01789 Whitechapel Central site (complete)
- 6 GLA Representation Hearing Report 8 February 2016
Application No. P2015/3136/FUL Monmouth House, Islington
- 7 RLH, Buildings E and I **'View Shed' Diagram**
- 8 Note confirming Appellants
- 9 London Plan 2016 pp 93-97
- 10 Buildings E and I **'View Shed' Diagrams**
- 11 M Wunderlich letter of instruction
- 12 Draft Planning Obligation (Track changes version)
- 13 Draft Planning Obligation (without changes)
- 14 Draft Schedule of Conditions
- 15 Draft Unilateral Undertaking
- 16 Invitation to Architects for Concept Scheme Proposals Sept 2013
- 17 R Coleman: Additional Townscape Photographs
- 18 Philpot Terrace application plans
- 19 Committee Report (extract): Application No. 2017/3847/P
Camden Goods Yard, Chalk Farm Road, Camden
- 20 **Inspector's Report (extract): Examination of Further Alterations to**
London Plan November 2014
- 21 Accompanied Site Visit: proposed route
- 22 Draft Planning Obligation (Track changes version)
- 23 Draft Planning Obligation (without changes)
- 24 Summary Justification of Heads of Terms of S106 Agreement
- 25 Schedule of Draft Planning Conditions (amended)
- 26 Draft Supplementary Statement of Common Ground
- 27 Draft Planning Obligation (Track changes version)
- 28 Draft Planning Obligation (without changes)
- 29 Examples of precast masonry
- 30 Closing Submissions on behalf of the Local Planning Authority
- 31 Amended Schedule of Plans
- 32 Signed Supplementary Statement of Common Ground
- 33 High Court Judgment: Barwood Strategic Land II LLP v East
Staffordshire Borough Council and Secretary of State for
Communities and Local Government [2017] EWCA Civ 893
- 34 Government Legal Department Skeleton Argument (extract)
- 35 Closing Submissions on behalf of the Appellants

DOCUMENT SUBMITTED AFTER THE INQUIRY

- 36 Certified copy of signed Section 106 Agreement dated
20 December 2017

Appeal Ref: APP/E5900/W/17/3171437
The Whitechapel Estate, Site between Varden Street and Ashfield Street,
London E1 2JH

Schedule of conditions Nos. 1-34

1 Time Limit

The development hereby permitted shall begin not later than three years from the date of this decision.

2 Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans:

1264-A-M-002, 1264-A-M-003, 1264-A-M-004, 1264-A-M-005,
1264-A-M-006;

1264-A-EX-100, 1264-A-EX-101, 1264-A-EX-102, 1264-A-EX-103,
1264-A-EX-104, 1264-A-EX-105, 1264-A-EX-106, 1264-A-EX-107,
1264-A-EX-108, 1264-A-EX-109, 1264-A-EX-110, 1264-A-EX-120 A,
1264-A-EX-200, 1264-A-EX-201, 1264-A-EX-202, 1264-A-EX-203;

1264-A-M-099 A, 1264-A-M-100, 1264-A-M-102-TYP,
1264-A-M-116-TYP, 1264-A-M-124, 243.07 E;

1264-A-M-200, 1264-A-M-201, 1264-A-M-202,
1264-A-M-203, 1264-A-M-204, 1264-A-M-205, 1264-A-M-206,
1264-A-M-250, 1264-A-M-251, 1264-A-M-252, 1264-A-M-253,
1264-A-M-260, 1264-A-M-261, 1264-A-M-263, 1264-A-M-264,
1264-A-M-266, 1264-A-M-268;

1264-A-BA-099 A, 1264-A-BA-100 B, 1264-A-BA-101 A,
1264-A-BA-103 A, 1264-A-BA-104, 1264-A-BA-200 A,
1264-A-BA-250, 1264-A-BA-300;

11-101 A, 11-102 A, 11-103 B, 11-104 A, 11-105 A, 11-106 A,
11-107 A, 11-108 A, 11-109 A, 11-110 A, 11-111, 11-112;

11-201 B, 11-202 A, 11-203 B, 11-204 B, 11-205 B, 11-206 A,
11-207 A, 11-208 A, 11-209 A, 11-210 A, 11-211 A, 11-212, 11-213;

12-101, 12-102, 12-103, 12-104, 12-105, 12-106, 12-107,
12-108, 12-109, 13-101 A, 13-102, 13-103, 13-104,
13-105 A, 13-106 A, 13-107, 13-108, 13-109, 13-110, 13-111,
13-112, 13-201, 13-202;

1264-A-BE-099 A, 1264-A-BE-100 A, 1264-A-BE-101 B,
1264-A-BE-102, 1264-A-BE-103, 1264-A-BE-104 A,
1264-A-BE-105 A, 1264-A-BE-108, 1264-A-BE-113 A,
1264-A-BE-114 A, 1264-A-BE-115 A, 1264-A-BE-116 A,
1264-A-BE-118 A, 1264-A-BE-120, 1264-A-BE-200,

1264-A-BE-201, 1264-A-BE-250, 1264-A-BE-300, 1264-A-BE-301;

1264-A-BFG-099 A, 1264-A-BFG-100 B, 1264-A-BFG-101 B,
1264-A-BFG-102 B, 1264-A-BFG-103 B, 1264-A-BFG-104 B,
1264-A-BFG-105 B, 1264-A-BFG-106 B, 1264-A-BFG-107 B,
1264-A-BFG-108 A, 1264-A-BFG-109, 1264-A-BFG-200 A,
1264-A-BFG-250, 1264-A-BFG-300, 1264-A-BFG-301;

1264-A-BHa-099 A, 1264-A-BHa-100 A, 1264-A-BHa-101 A,
1264-A-BHa-102 A, 1264-A-BHa-104, 1264-A-BHa-110,
1264-A-BHa-111, 1264-A-BHa-112, 1264-A-BHa-200,
1264-A-BHa-250, 1264-A-BHa-300;

1264-A-BHb-099 A, 1264-A-BHb-100, 1264-A-BHb-101,
1264-A-BHb-105, 1264-A-BHb-106, 1264-A-BHb-200,
1264-A-BHb-250, 1264-A-BHb-300;

1264-A-BI-099 A, 1264-A-BI-100 A, 1264-A-BI-101, 1264-A-BI-104,
1264-A-BI-105 A, 1264-A-BI-106 A, 1264-A-BI-107 A,
1264-A-BI-109 A, 1264-A-BI-118 A, 1264-A-BI-119 A,
1264-A-BI-120 A, 1264-A-BI-122 A, 1264-A-BI-123 A,
1264-A-BI-124, 1264-A-BI-200 A, 1264-A-BI-201, 1264-A-BI-300,
1264-A-BI-301, 1264-A-BI-302.

3. Permitted Development

- a) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), no fences, barriers, gates or other means of enclosure other than those shown on the approved plans shall be erected within the site following the practical completion of the development.
- b) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), no painting of finished brickwork or other non-rendered facades other than any shown on the approved plans shall take place within the site.

4 Phasing Plan

Prior to implementation of the development hereby permitted, a construction and demolition Phasing Plan for the development shall be submitted to and approved in writing by the local planning authority. The Phasing Plan shall set out the timescale for the commencement and practical completion of each phase of the development, including both demolition and construction. The Phasing Plan shall be accompanied by a statement detailing how the phasing aligns with that assessed in the Environmental Statement. Should the phasing plan not accord with that assessed within the Environmental Statement, the statement must demonstrate that this change will not alter the effects (on internal and external receptors to the site) identified within the Environmental Statement.

The demolition and construction shall be carried out in accordance with the phases and timescales identified in the approved Phasing Plan.

5 Specialist Health Accommodation Provision

During all phases of demolition and construction not less than fifty (50) specialist accommodation (C2) units shall be available for occupation to **those persons eligible ('eligible persons' as defined in the accompanying s106 agreement)**.

Prior to occupation of the final phase of development, the 168 specialist accommodation units hereby approved shall be available for occupation to **those persons eligible ('eligible persons' as defined in the accompanying s106 agreement)**.

6 Noise Standards for New Residential Units

- a) All of the approved residential units shall be constructed and fitted out to ensure that:
 - i. They accord with BS **8233:2014 'Guidance on sound insulation and noise reduction for buildings'**;
 - ii. Structure-borne noise does not exceed LA_{max} 35 dB;
 - iii. **Exposure to vibration is no higher than of "low probability of adverse comment"** in accordance with BS **6472 'Evaluation of Human Exposure to Vibration in Buildings'**;
 - iv. At any junction between residential and non-residential uses, the internal noise insulation level is no less than 55D_{nT,w} + C_{tr} dB; and
 - v. Internal Ambient Noise Levels for new residential dwellings meets 35 dB LA_{eq,16} hour, between hours 07:00 - 23:00 and within bedrooms meets 30 dB LA_{eq}, 8 hour between hours 23:00 - 07:00.
- b) None of the residential units within each phase of development approved pursuant to condition 4 shall be occupied until a post-completion verification report, including acoustic test results, for that phase has first been submitted to and approved in writing by the Localplanning authority to confirm that the above minimum standards have been achieved.

7 Plant Noise levels

Before any mechanical services plant, within each phase of development, approved pursuant to condition 4, including, but not limited to, heating, power supply, ventilation and air conditioning (HVAC), plant to which the application refers, is used in the operational phase of the development, a scheme shall be submitted to and approved in writing by the Localplanning authority, for the phase, which demonstrates that the following noise design requirements can be complied with. The approved requirements shall thereafter be retained as approved.

- a) The cumulative measured or calculated rating level of noise emitted from the mechanical services plant shall be lower than the pre-

development background noise level by 5dB(A) at all times the plant is in operation.

The measured or calculated noise levels shall be determined at the boundary of the nearest ground floor noise sensitive premises or 1.0m from the facade of the nearest first floor (or higher) noise sensitive premises, and in accordance to the latest BS 4142 (currently 2014). An alternative position for assessment/measurement may be used to allow ease of access, this must be shown on a map and noise propagation calculations detailed to show how the design criteria are achieved.

- b) The plant shall be isolated so as to ensure that vibration amplitudes which cause re-radiated noise do not exceed the limits detailed in table 4 detailed in section 7.7.2 of BS 8233: 2014 'Guidance on sound insulation and noise reduction for buildings'.
- c) A compliance acoustic assessment (applying BS 4142: 2014 'Methods for rating and assessing industrial and commercial sound-methodology') shall be undertaken within 2 weeks of mechanical services commissioning, in order to demonstrate that the condition has been achieved. The results of the assessment shall be submitted to and approved in writing by the local planning authority.

8 Accessible Residential and Lifts

- a) Prior to occupation of the relevant units within each phase of development approved pursuant to condition 4, details for that phase shall be submitted to and approved in writing by the local planning authority demonstrating that:
 - i) 90% of the Class C3 and 90% of the Class C2 residential units hereby permitted have been designed and constructed in accordance with Optional Requirement M4 (2) of Part M of the Building Regulations;
 - ii) 10% of the Class C3 residential units within the market sales have been designed and constructed to meet the requirements of M4 (3)(2)(a) (adaptable) of the Building Regulations;
 - iii) 10% of the Class C3 rented affordable housing units and 10% the Class C2 specialist units specified for longer term letting and short term letting have been designed and constructed to meet the optional requirement of M4 (3) (2) (b) (wheelchair accessible), of the Building Regulations.
- b) All lifts serving the residential uses hereby permitted shall be installed as shown on the approved plans in accordance with a written scheme that has first been submitted to and approved in writing by the local planning authority. All lifts approved shall be operational prior to the first occupation of the respective residential access cores. All lifts approved shall be retained and maintained in an operational condition for the lifetime of the development.

9 Air Extraction and Filtration for Commercial Uses

None of the approved non-residential uses within each phase of development approved pursuant to condition 4, shall commence until a scheme for the extraction and treatment of fumes and odours generated from cooking or any other activity associated with any of those non-residential units, for that phase, has been submitted to and approved in writing by the local planning authority.

Any equipment, plant or process approved pursuant to such details shall be installed prior to the first use of the premises and shall be operated and retained in accordance with the approved details and operated in accordance with **manufacturer's instructions**.

The scheme shall include a risk assessment and odour control measures which comply with the minimum requirements the Department of Framing & Rural **Affairs: 'Control of Odour and Noise from Commercial Kitchen Systems'** 2004.

10 Dust Management

No development shall commence within each phase of development approved pursuant to condition 4 until a dust management plan for that phase has been submitted to and approved in writing by the local planning authority. The dust management plan shall include the following details:

- a. Demonstration of compliance with the guidance found in the control of dust and emissions from construction and demolition Best Practice produced by the Greater London Authority;
- b. A risk assessment of dust generation shall be prepared for each phase of the development. The assessment and identified controls must include the principles of prevention, suppression and containment and follow the format detailed in the guidance above. The outcome of the assessment shall be fully implemented for the duration of the construction and demolition phases of the proposed development and include dust monitoring where appropriate;
- c. Where the outcome of the risk assessment indicates that monitoring is necessary, a monitoring protocol including information on monitoring locations, frequency of data collection and how the data will be reported to the local planning authority;
- d. Details of dust generating operations and the subsequent management and mitigation of dust demonstrating full best practicable means compliance and covering construction activities, materials storage, on and off site haul routes, operational control, demolition, and exhaust emissions; and
- e. where a breach of the dust trigger level may occur a response procedure shall be detailed including measures to prevent repeat incidence.

11 Construction Hours

1. The building operations required to carry out the development hereby permitted shall only be carried out within the following times and not at all on Sundays and Bank Holidays: -
 - 8.00 am to 6.00 pm Monday to Friday
 - 8.00 am to 1.00 pm on Saturdays
2. Any hammer-driven piling or impact breaking out of materials carried out in pursuance of this permission shall be carried out only between the hours of 10.00 am to 4.00 pm Mondays to Fridays and shall not take place at any time on Saturdays, Sundays and Bank Holidays.

12 Archaeology

No demolition or development within each phase of development approved pursuant to condition 4 shall commence until a written scheme of investigation (WSI) for that phase has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the approved WSI, which shall include:

- A) relevant historical documentary research, a statement of significance and research objectives;
- B) the programme and methodology of site investigation, excavation, recording and the nomination of a competent person(s) or organisation to undertake the approved works;
- C) the programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material (this part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the WSI).

13 Memorial of Burial Ground

Details of a memorial of the burial ground (in consultation with the relevant faith groups) shall be submitted to and approved in writing by the local planning authority prior to the demolition of 71 Varden Street. The approved memorial shall be erected in place prior to occupation of the final phase of development hereby permitted.

14 Demolition and Construction Environmental Management Plan

- a) No demolition works shall take place until an overarching Demolition Environmental Management and Logistics Plan for the site has been submitted to and approved in writing by the local planning authority.
- b) No construction works shall take place until an overarching Construction Environmental Management and Logistics Plan for the site has been submitted to and approved in writing by the local

planning authority.

- c) No demolition works within each phase of development approved pursuant to condition 4 shall take place until a Demolition Environmental Management and Logistics Plan, for that phase, has been submitted to and approved in writing by the local planning authority.
- d) No construction works within each phase of development approved pursuant to condition 4 (excluding demolition) shall take place until a Construction Environmental Management and Logistics Plan for that phase has been submitted to and approved in writing by the local planning authority.

Each demolition and construction environmental management plan identified in parts a), b), c) and d) above shall provide details of site-wide measures or works consistent with the relevant phase of development approved pursuant to condition 4. The plans shall include details of:

- i. the site manager, including contact details (phone, email, postal address) and the location of a large notice board on the site that clearly identifies these details of the site manager and a **"Considerate Constructors" contact telephone number;**
- ii. the parking of vehicles of site operatives and visitors;
- iii. the erection and maintenance of security and acoustic mitigation hoardings;
- iv. wheel washing facilities;
- v. a scheme for recycling/disposing of waste resulting from demolition and construction works;
- vi. any means, such as a restriction on the size of construction vehicles and machinery accessing the site, required to ensure that no damage occurs to adjacent highways throughout the construction period;
- vii. any means of protection of services such as pipes and water mains within the adjacent highways;
- viii. measures to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage, loading and unloading of building plants and materials and similar demolition or construction activities;
- ix. handling and storage of fuel and chemicals in designated areas containing spill kits and procedures for the handling and storage of potential contaminants and associated clean-up procedures.
- x. measures to ensure that pedestrian access past the site is safe and not obstructed during construction works;
- xi. location of workers' **toilet facilities;**
- xii. ingress and egress to and from the site for vehicles during site works period;
- xiii. proposed numbers and timing of truck movements throughout the day and the proposed routes;
- xiv. monitoring and managing construction traffic to ensure that vehicles do not block the public highway on entry and exiting the site

- xv. measures to protect soils and controlled waters from contamination during demolition and construction including consideration will be given to the appropriate use of bunding and temporary settlement ponds to ensure the protection of water quality in the surrounding water courses
- xvi. detail removal of soil, dust, debris and demolition and construction materials from public roads or places;
- xvii. measures to safeguard subsurface utilities infrastructure; and
- xviii. measures to maximise the use of waterborne transport during the construction of the development (unless a feasibility study submitted to and approved in writing by the local planning authority demonstrates that use of waterborne transport is not feasible);
- xix. measures to ensure that all non-road mobile machinery meets the minimum emission requirements set out in the Mayor of **London's** 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance 2014.
- xx. Information on how the demolition/construction mitigation measures relied upon in the Environmental Statement as being included in the DEMP/CEMP, have been incorporated.

The development shall be carried out in accordance with the approved details.

15 Land Contamination

No development within each phase of development approved pursuant to condition 4 shall commence until a ground contamination and remediation study for that phase has been submitted to and approved in writing by the local planning authority.

The study shall identify the extent of the contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed and shall include the following details:

- i. A phasing plan identifying all areas of investigation and remediation to be undertaken in each phase of the development;
- ii. A 'desk study report' documenting the history of the relevant phase of the site;
- iii. A proposal to undertake an intrusive investigation at the site if recommended by the findings of the desk study;
- iv. A 'site investigation report' to investigate and identify potential contamination in each phase if intrusive investigation is carried out;
- v. A risk assessment for each phase;
- vi. Proposals for any necessary remedial works to contain treat or remove any contamination in each phase;

- vii. A verification report confirming that all necessary remediation works for each phase have been satisfactorily completed.

The development must be carried out in accordance with the remediation works approved by the local planning authority as part of the scheme for that phase.

16 Water Supply Impact Study

No works, except for works of demolition, archaeological and ground investigations, within each phase of development approved pursuant to condition 4 shall take place until a Water Supply Impact Study for that phase has been submitted to and approved in writing by the local planning authority.

The study shall determine the magnitude of any new additional water supply capacity required as a result of the development and location of a suitable connection point.

17 Piling Method Statement

No piling within any phase of development shall take place until a piling method statement for that phase (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the local planning authority.

Any piling shall be undertaken in accordance with the approved details.

18 Sustainable Drainage Strategy

No development shall commence, other than demolition, archaeological and ground investigations, within a phase of development, until a sustainable urban drainage strategy for that phase has been submitted to and approved in writing by the local planning authority.

The drainage strategy shall demonstrate how any SuDS and/or attenuation features will be incorporated into the development in accordance with the drainage hierarchy of London Plan (2016) Policy 5.13. Details for implementation thereafter shall include: -

- a) Full drainage plans showing exceedance routes / flow paths;
- b) Location of the attenuation tanks and connection points to existing sewers;
- c) Demonstration that no surcharging would be experienced in a 1 in 2 year storm, no flooding in 1 in 30 year storm, and in a 1 in 100 year storm that flood water would be contained within the site boundaries and kept away from buildings and critical infrastructure;
- d) Measures for the maintenance and monitoring of SuDS features

The development shall be carried out in accordance with the approved

details and maintained for the lifetime of the development.

19 Details of Materials

Prior to the commencement of each phase of development approved pursuant to condition 4 the following details for that phase shall be submitted to and approved in writing by the local planning authority:

- a) A mock-up panel of no less than 2m by 2m of the external cladding materials;
- b) Samples of all other external facing materials including soffits and external rainwater goods;
- c) A sample of each type of window to be viewed, where deemed necessary by the local planning authority, on site;
- d) Detailed elevation drawings (at a scale of no less than 1:20) and section drawings (of no less than 1:10) of all window reveals/ bay studies, balconies and ground level entrances;
- e) Scaled drawings and details of material finish to any rooftop plant.

The development shall be carried out in accordance with the approved details and retained as such thereafter.

20 Landscaping Management Scheme

Notwithstanding the details shown on approved plan 247.07 Rev.E, prior to commencement (except demolition) of development a landscape scheme with details of the treatment of all open spaces associated with the development, including to public open space, communal amenity space and private amenity space, shall be submitted to and approved in writing by the local planning authority. The scheme shall provide the following details:

- a) Identify all areas of landscaping, public realm and play space to be delivered in each phase of the development, including delivery timescales;
- b) Demonstrate how the overall landscaping measures are entirely consistent with the agreed wind mitigation measures
- c) **Details of equipment and layout of the children's play spaces, types** of play areas, play equipment, how space is differentiated from communal/public open space and how this fits in with the child play space strategy for the whole site;
- d) Enclosures, including but not limited to types, dimensions and treatments of walls, fences, screens barriers, rails, retaining walls and hedges;
- e) Details of hard landscaping, including but not limited to types, dimensions and treatments of paved areas, paths and rights of way;
- f) Details of street furniture, including wayfinding signage, and details of the maintenance of any such furniture;

- g) Details of visitor cycle stands consistent with the approved cycle parking provision for the site;
- h) Details of external lighting including details of fixtures for street lighting, lighting of open spaces, external lighting of buildings and non-residential ground floor units, hours of operation of lighting and lux levels;
- i) Soft landscaping, including numbers and types of species to be planted and how the type of planting will enhance biodiversity;
- j) Details of any other landscaping features forming part of the scheme.

All landscaping in accordance with the approved scheme shall be completed/ planted during the first planting season following practical completion of each phase. Any trees or shrubs which die within five years of completion of the development shall be replaced with the same species.

Prior to commencement of each phase of development (except demolition) approved pursuant to condition 4 a Landscaping Management Scheme for that phase shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of how the management scheme for the relevant phase fits in with the site-wide landscape scheme. The landscaping shall be managed in accordance with the approved scheme.

21 Biodiversity Enhancements

Prior to the commencement of any above ground level superstructure works within each phase of development approved pursuant to condition 4, full details of all biodiversity enhancements for that phase shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall include but not be limited to the following:

- biodiverse roofs following the best practice guidance– details provided should include the location and total area of biodiverse roofs, substrate depth (which should vary between 80mm and 150mm) and type, planting (which should not use any vegetated mat or blanket), and additional habitats to be provided such as piles of stones or logs;
- landscaping to include a good diversity of nectar-rich plants to provide food for bumblebees and other pollinators for as much of the year as possible - details should include species list and planting plans;
- bat boxes and nest boxes for appropriate bird species, including swift, house sparrow and house martin – details should include number, locations and type of boxes.

The approved biodiversity enhancements shall be implemented in full prior to first occupation of that phase and shall be retained and maintained as approved thereafter.

21 Nesting Birds

All demolition of existing buildings and removal of trees, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall inspect the areas concerned immediately prior (within 5 days) to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation around the nest shall not be removed until a suitably qualified ecologist has confirmed that the birds have finished nesting.

A report of the ecology inspection shall be submitted to the local planning authority within two weeks of such an inspection.

22 Details of Mechanical Ventilation – Air Quality

Prior to the commencement of any above ground level superstructure works within a phase of development approved pursuant to condition 4, full details of mechanical ventilation for that phase shall be submitted to and approved in writing by the local planning authority.

The details shall demonstrate how NO₂ annual objectives in accordance with the Air Quality Standards Regulations 2010 are achieved for the proposed residential units including, where applicable, details of mechanical ventilation from air inlet at roof level or at the façade to provide cleaner air for the residents where facades to residential units are predicted to exceed the NO₂ objective.

The development shall be carried out in accordance with the approved details.

23 Details of Cycle Parking

Prior to commencement of superstructure development above ground level within each phase of development approved pursuant to condition 4, details of the cycle parking facilities for that phase shall be submitted and approved in writing by the local planning authority. Details to be submitted shall include a detailed layout plan (no less than 1:50) for the cycle parking facilities and details of secure cycle stands in compliance with London Plan (2016) minimum standards (located at basement level and on-surface), including provision of 'Sheffield' type cycle stands.

The cycle parking facilities shall be in place and fully operational prior to the occupation of that phase and all stands and other cycle parking facilities shall be regularly maintained to function fully for the life of the development.

24 Waste Management Strategy

Prior to commencement of any works above ground floor level within each phase of development approved pursuant to condition 4, a Waste Management Strategy for that phase shall be submitted to and approved in writing by the local planning authority.

The Waste Management Strategy for each phase shall include the following information:

- Details of a strategy for minimising the production of waste for the occupied development;
- Details of the provision of facilities for the storage and collection of separated wastes (including separated storage of recyclable materials);
- Details of waste service vehicle routing and the proposed collection points.

The approved Waste Management Strategy shall be implemented as approved and maintained for the lifetime of the development.

25 Wind Mitigation Measures

Prior to the commencement of above ground works within each phase of development approved pursuant to condition 4, a Wind Mitigation Report for that phase shall be submitted to and approved in writing by the local planning authority. The Report shall:

- i. Demonstrate that the wind mitigation measures to be implemented within that phase achieve suitable wind conditions relevant to that phase and do not undermine the identified wind mitigation in subsequent phases of the development;
- ii. Demonstrate that the landscaping is consistent with the illustrative landscaping tested in the ES wind tunnel testing and if altered additional wind tunnel testing shall be undertaken and submitted to confirm that conditions on occupancy would remain as assessed in the ES, or calmer;
- iii. Provide full details to show that suitable wind conditions can be achieved with mitigation measures at least equal or better at all **receptors than mitigation measures tested in the 'Pedestrian Level Wind Microclimate Assessment Wind Mitigation Workshop' (June 2016)**;
- iv. **Demonstrate that the terraces are suitable for 'sitting' as measured by the Lawson Comfort Criteria and will achieve the standard for 'long term sitting'**;
- v. Identify any areas of seating, and confirm that these have been positioned in locations with suitable wind conditions, or alternatively, mitigation identified and tested to ensure suitable 'long term sitting' conditions can be achieved;

Thereafter design and mitigation measures including landscaping shall be installed in accordance with the details approved prior to first occupation of that phase, and shall be retained as such thereafter. Any trees/vegetation required to provide wind mitigation must be planted at the same maturity as tested and retained thereafter.

The development of that phase shall be carried out in accordance with the approved details and maintained for the lifetime of the development.

26 Secure by Design

Prior to the commencement of any above ground level superstructure works within each phase of development, approved pursuant to condition 4 details of Secured by Design measures for that phase targeted at the Gold standard shall be submitted to and approved in writing by the local planning authority.

The Secured by Design measures shall be implemented in accordance with the approved details, completed prior to the first occupation of the phase and retained for the life of the development.

27 Residential Delivery and Servicing Plan

Prior to occupation of each phase of development approved pursuant to condition 4, a Delivery and Servicing Plan for that phase shall be submitted to and approved in writing by the local planning authority. A delivery and servicing plan shall include, as a minimum, written details of the servicing times for all commercial delivery and collection vehicles serving the (C2 and C3 Use Class) residential units, and the B1 Use Class and flexible use retail (A1-A3 Use Class) units, together with measures to control noise disturbance including use of quiet technology.

The development shall be carried out in accordance with the approved details and maintained for the lifetime of the development.

28 Energy Efficiency and Sustainability

- a) The development shall be carried out in accordance with the submitted Energy Statement (by Scotch Partners dated October 2015) and Energy Statement Addendum (by Scotch Partners dated February 2016) and Sustainability Statement (by Scotch Partners dated October 2015). The energy efficiency and sustainability measures set out therein shall be completed prior to the first occupation of each phase of development approved pursuant to condition 4 and retained for the lifetime of that phase.
- b) The development shall achieve regulated carbon dioxide emission savings of no less than 30.7% against the Target Emissions Rate of Part L of Building Regulations (2013).
- c) The 1,135m² photovoltaic array system shall be installed prior to occupation of the final phase of the development, and be retained for the lifetime of the development.
- d) The development shall achieve BREEAM 'Very Good' standard on any non-residential units under 500sqm (GIA). Any non-residential units over 500sqm (GIA) shall achieve compliance with at least the 'Excellent' BREEAM standard. Within 6 months of occupation of the assessed unit, a final BREEAM certificate shall be submitted for

approval by the local planning authority demonstrating achievement of BREEAM 'Excellent'.

- e) The heat and hot water supply system shall be designed and constructed so as to enable a future connection of the supply system to a district heating network.
- f) Prior to installation of heat and hot water supply system for each phase of development a detailed technical specification of the system for that phase shall be submitted and approved in writing by the local planning authority. The specification shall demonstrate that the heat and water supply system does not have unacceptable adverse air quality effects. The report shall include details of any mitigation measures and on-going maintenance & monitoring provisions.
- g) All of the approved residential units shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional **requirement G2(36)(2)(b) '110 litres water consumption per person per day'**.
- h) Prior to occupation of each phase of development, a post completion verification report for that phase shall first be submitted to and approved in writing by the local planning authority to confirm that the above minimum standards have been achieved and that all of the approved energy efficiency and sustainability measures have been implemented.

29 Car Park Management Strategy

Prior to the occupation of each phase of development approved pursuant to condition 4, a Car Parking Management Strategy for that phase shall be submitted and be approved in writing by the local planning authority.

- a) The Car Parking Management Strategy shall govern the allocation of car parking spaces, including the wheelchair accessible spaces for the lifetime of the development including the option to provide for car parking provision for Council Parking Permit Transfer Scheme to future occupants of the rented affordable housing.
- b) The Strategy shall provide full details of 33 wheelchair accessible car parking spaces including a detailed annotated plan of the car parking basement area.
- c) No less than 8 car parking spaces shall be provided with electric vehicle charging points. Passive provision for future provision of electric charging points shall be made for further 8 car parking spaces. The charging points as well as passive provision shall be in place prior to the first occupation of the development phase and retained for its lifetime.
- d) All car parking spaces shall remain exclusively for use by Blue Badge Bay occupiers of the development and for Council Parking Permit Transfer Scheme for the duration of the lifetime of the development

and not used for other residents of the development.

- e) At no time shall any external areas of the development save for those explicitly identified on drawing 1264-A.M 100 be made available for parking of motor vehicles other than to facilitate essential maintenance works.
- f) The Car Parking Management Strategy submitted and approved for the final phase shall cover all phases of the development and thereby supersede any Car Parking Management Strategy previously agreed for earlier phase/s.

30 Commercial units

The flexible use spaces hereby permitted in Buildings B1, D1 and E and **marked on the approved plans as 'retail' shall be used for uses falling within Classes A1, A2 or A3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other use.** Before any such space is occupied, a plan shall be submitted to and approved in writing by the local planning authority to confirm the nature of the use and to define the extent of any ancillary outdoor area for the use. The development shall be carried out in accordance with the approved details and retained as such thereafter.

31 Commercial Shop Fronts

Prior to the first occupation of any flexible use spaces hereby permitted in Buildings B1, D1 and E **and marked on the approved plans as 'retail'** within each phase of development approved pursuant to condition 4, full details of the proposed shop fronts for the applicable non-residential unit within that phase shall be submitted to and approved in writing by the local planning authority, including details of the following:

- i. Detailed drawings at scale 1:20 (including sections) of the proposed shop fronts;
- ii. Detailed drawings at scale 1:20 of the proposed area for signage;
- iii. Details of the proposed materials for the shop front; and
- iv. Details of any security measures.

The development shall be carried out in accordance with the approved details.

32 A1-A3 Opening Hours

Any A1, A2, or A3 use hereby permitted shall not open to the public outside the hours of: -

0600 – 23:00 Sunday – Thursday
0600 – 23:30 Friday and Saturday

33 Crane Plan

Prior to the commencement of development, a crane lifting plan shall be submitted to and approved in writing by the local planning authority.

The lifting strategy shall include details of the Risk Assessment and Method Statement for siting, erection, lifting arrangements, operational procedure (including any radio communications), jacking up, maximum height, derigging in addition to plans for elevation, loads, radius, slew restrictions and collapse radius.

The development shall be carried out in accordance with the approved plan.

34 Cleaning Gantry

Any cleaning gantry equipment erected in connection with the development shall be designed so that it is fully retractable behind all sections of the facing edges of the building on which it is placed. The gantry shall be kept fully retracted when not in use.

APPENDIX A.2: BRE SITE LAYOUT PLANNING FOR DAYLIGHT AND SUNLIGHT (PJ LITTLEFAIR, 2011)

APPENDIX C

INTERIOR DAYLIGHTING RECOMMENDATIONS

C1 The British Standard *Code of practice for daylighting* (BS 8206-2)^[C1] and the CIBSE *Lighting Guide LG 10 Daylighting and window design*^[C2] contain advice and guidance on interior daylighting. The guidance contained in this publication (BR 209) is intended to be used with BS 8206-2 and LG 10. Both these publications refer to BR 209.

C2 For skylight BS 8206-2 and LG 10 put forward three main criteria, based on average daylight factor (ADF); room depth; and the position of the no sky line.

Average daylight factor

C3 This is the average illuminance on the working plane in a room, divided by the illuminance on an unobstructed horizontal surface outdoors. The CIE standard overcast sky (see the Glossary) is used, and the ratio is usually expressed as a percentage.

C4 If a predominantly daylit appearance is required, then the ADF should be 5% or more if there is no supplementary electric lighting, or 2% or more if supplementary electric lighting is provided. There are additional recommendations for dwellings of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. These additional recommendations are minimum values of ADF which should be attained even if a predominantly daylit appearance is not achievable.

C5 ADF can be calculated using the following formula:

$$ADF = \frac{TMA_w \theta}{A(1 - R^2)} \quad \%$$

where:

- T is the diffuse visible transmittance of the glazing, including corrections for dirt on glass and any blinds or curtains. For clean, clear double glazing with a low emissivity coating, a value of 0.68 can be used. For other types of glazing, the diffuse transmittance can be found by multiplying the manufacturer's normal incidence light transmittance by 0.91
- M is a maintenance factor, allowing for the effects of dirt^[C2]
- A_w is the net glazed area of the window (m²)
- A is the total area of the room surfaces: ceiling, floor, walls and windows (m²)

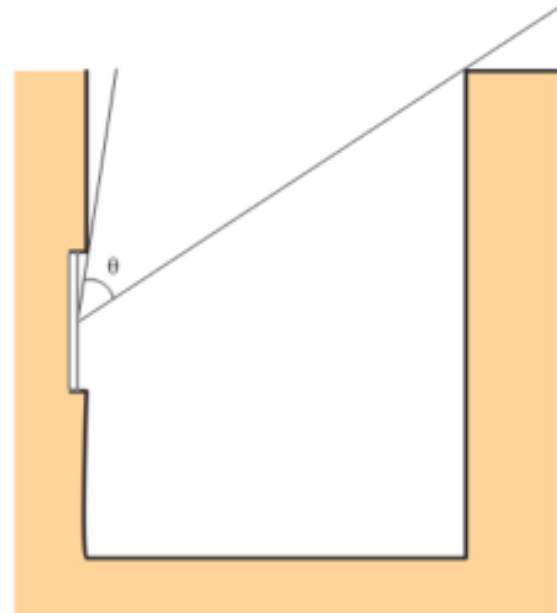


Figure C1: θ is the angle subtended, in the vertical plane perpendicular to the window, by sky visible from the centre of the window

R is their average reflectance. For fairly light-coloured rooms a value of 0.5 can be taken. This value can be used as a default if room reflectances are not known. θ is the angle of visible sky in degrees, measured as shown in Figure C1. It should be measured from a point halfway between the inner and outer faces of the window wall.

C6 Of these quantities, only θ depends on external obstruction. It can be directly related both to the obstruction angle and the vertical sky component (VSC) on the external window wall, as Table C1 shows. In Table C1, no correction has been made for light blocked by the window reveals. This could be done by subtracting the angle subtended by the window wall.

C7 So whatever the shape of any obstruction, it is possible to calculate the VSC at the centre of the window using the skylight indicator (Appendix A) or Waldram diagram (Appendix B), then to find the 'equivalent θ ' from Table C1. This value can be used in the equation to find the ADF for complex obstructions.

Table C1: Values of angle θ for various obstruction angles and VSCs

Obstruction angle, degrees from horizontal (%)	Vertical sky component at centre of window equation	Value of θ in average daylight factor
5	38	85
10	35	80
15	33	75
20	30	70
25	27	65
30	24	60
35	21	55
40	18	50
45	15	45
50	13	40
55	10	35
60	7	30
65	5	25
70	3	20
75	2	15
80	1	10

C8 Reductions in VSC received by the windows of an existing building can also be related to reductions in ADF using Table C1. For example, if the VSC is reduced from 30% to 24% (0.8 times its former value) the value of θ will be reduced from 70 to 60. Thus the ADF is reduced to 60/70 or 0.86 times its former value.

C9 If a room has more than one window, the ADFs due to each one are calculated separately then simply added together.

C10 A special procedure is required for floor to ceiling windows such as patio doors. If part of a window is below the height of the working plane (a horizontal plane 0.85 m above the floor in housing, 0.7 m above the floor in offices), this portion should be treated as a separate window. The ADF for this window has an extra factor applied to it, to take account of the reduced effectiveness of low level glazing in lighting the room. A value equal to the floor reflectance may be taken for this factor, if this is known. If room reflectances are not known, a value of 0.15 can be taken. If the lower part of the window is diffusing (frosted) glass, a value of $R \times (1+R) / 2$ can be taken, where R is the average reflectance of the room surfaces. Thus for $R = 0.5$ the extra factor for diffusing glass would be $0.5 \times 1.5 / 2 = 0.375$. The ADF for the portion of the window above the working plane is calculated in the normal way without this additional factor, and the ADFs for the two portions are added together.

C11 Where windows look into an atrium, the method in BRE Information Paper IP 3/98 *Daylighting in atrium buildings*^(C3) may be used to find the ADF.

C12 Where a rooflight has a continuous obstruction on one side of it, or continuous obstructions on two opposite sides, the angle of visible sky θ can be measured from the section perpendicular to the obstruction(s). If the obstructions are discontinuous or surround the rooflight, the horizontal sky component (HSC) on top of the rooflight can be found using a computer program, or by using BRE daylight protractor^(C4) number 10 to subtract off the sky component blocked by each obstruction in turn (the sky component on an unobstructed rooflight is 100%). The angle of visible sky θ can then be estimated from:

$$\begin{aligned} \text{Angle of visible sky } \theta \\ = 2 \times \text{HSC} + 0.2 \times (100 - \text{HSC}) \text{ degrees} \end{aligned}$$

Room depth

C13 If a daylit room is lit by windows in one wall only, the depth of the room, L should not exceed the limiting value given by:

$$\frac{L}{W} + \frac{L}{H} < \frac{2}{1 - R_b}$$

Where:

W is the room width

H is the window head height above floor level

R_b is the average reflectance of surfaces in the rear half of the room (away from the window).

C14 If L exceeds this value, the rear half of the room will tend to look gloomy and supplementary electric lighting will be required. For a typical room in a house where $W = 4$, $H = 2.4$ and $R_b = 0.5$, the limiting depth L is just over 5 m.

C15 External obstructions do not influence this recommendation. However, there are implications for site layout because the recommendation relates to the maximum depth of a building that can be satisfactorily daylit (twice the limiting depth L , from window wall to window wall).

Position of the no sky line

C16 If a significant area of the working plane (normally more than 20%) lies beyond the no sky line (ie it receives no direct skylight) then the distribution of daylight in the room will look poor and supplementary electric lighting will be required. Appendix D gives guidance on how to plot the no sky line.

C17 Note that the criteria in C14, C15 and C16 need to be satisfied if the whole of a room is to look adequately daylit. Even if the amount of daylight in a room (given by the ADF) is sufficient, the overall daylight appearance will be impaired if its distribution is poor.

Sunlight

C18 For sunlight, follow the recommendation given in BS 8206-2^(C3), as outlined in Sections 3.1 and 3.2.

REFERENCES

- C1 BSI. *Code of practice for daylighting*. BS 8206-2:2008. London, BSI, 2008.
 - C2 CIBSE. *Daylighting and window design*. LG10. London, CIBSE, 1999.
 - C3 Littlefair P J and Aizlewood M E. *Daylighting in atrium buildings*. BRE IP 3/98. Bracknell, IHS BRE Press, 1998.
 - C4 BRE. *Daylight protractors*. BRE AP 68. Bracknell, IHS BRE Press, 1991.
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APPENDIX A.3: 1 BURLINGTON LINE APPEAL DECISION



Appeal Decision

Hearing Held on 25 January 2024

Site visit made on 8 February 2024

by Jonathon Parsons MSc BSc DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

Appeal Ref: APP/F5540/W/23/3327579

1 Burlington Lane, London W4 2RR

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Jaysam Contractors Limited against the decision of the Council of the London Borough of Hounslow.
 - The application Ref 00176/1/P4, dated 30 October 2022, was refused by notice dated 31 March 2023.
 - The development proposed is the enlargement and extension of existing four storey vacant building involving the extension of the building outwards and the addition of two new storeys so as to accommodate a total of 104 new flats. Retention of 319m² Class E Office Space. Associated works including, the building of a new facade, the extension of the existing stairway towers, the creation of new lift cores and associated plant at roof level, the rearrangement of off street car parking provision, the rearrangement of servicing facilities, the building of a replacement substation, together with new hard and soft landscaping works including the creation of communal gardens and playspace.
-

Decision

1. The appeal is allowed and planning permission is granted for the enlargement and extension of existing four storey vacant building involving the extension of the building outwards and the addition of two new storeys so as to accommodate a total of 104 new flats. Retention of 319m² Class E Office Space. Associated works including, the building of a new facade, the extension of the existing stairway towers, the creation of new lift cores and associated plant at roof level, the rearrangement of off street car parking provision, the rearrangement of servicing facilities, the building of a replacement substation, together with new hard and soft landscaping works including the creation of communal gardens and playspace at 1 Burlington Lane, London W4 2RR in accordance with the terms of the application, Ref 00176/1/P4, dated 30 October 2022, subject to the following conditions on the attached schedule A.

Procedural Matters

2. At the hearing, the **appellant's** Supplementary Statement (SS)¹ was accepted because of new issues arising during the appeal process. There was acceptable time available to the Council to consider the SS before and at the hearing. At the hearing, the Council disputed the existence of a fallback position relating to a prior approval for the change of use of the former office building. Written

¹ Supplementary Statement relating to fire safety, accessibility, communal amenity space and playspace, daylight/sunlight/overshadowing, biodiversity net gain, overheating/noise, dwelling mix, etc, Lichfields, 17 January 2024.

submissions clarifying the positions of the two main parties on this material consideration have been considered post the hearing and commented upon within **this decision's** reasoning.

3. **Following the assessment of the appellant's revised Financial Viability**

Assessment (FVA)², the Council agreed that the appeal scheme cannot provide any affordable housing provision. Consequently, it no longer wishes to defend its objections on affordable housing provision, and there is no reason to differ from this view in the absence of any evidence to the contrary.

4. Prior to the hearing, the Health and Safety Executive (HSE) raised concerns to the proposal regarding fire safety. Following further information and details, HSE³ now raises no safety objections, subject to a planning condition requiring fire safety strategy and measures, including a core stairway upgrade with a lift, being imposed. As a statutory consultee advising on such matters, significant weight is attached to such a view. At the hearing, it was evident that the measures required by HSE could be conditioned and in the absence of any compelling evidence to the contrary, fire safety provision would be acceptable.
5. In its statement of case, the Council raised concerns over the provision of the accessible homes, both wheelchair/accessible and adaptable homes (building regulation Categories (M4(3) and M4(2))). The **appellant's** SS statement shows how accessible home provision could be made in accordance with planning policies, including London Plan (LP) 2021 Policy D7 (Accessible Housing). At the hearing, the Council raised no objections on this matter and, based on an updated illustrative plan and details, acceptable accessible home provision would be provided.
6. A section 106 agreement dated 28 February 2024 provides obligations for carbon offsetting, employment training, environment and infrastructure, early and late stage affordable housing viability reviews, transport, architect retention, district heating network safeguarding, considerate contractor scheme and monitoring. Such matters will be commented upon later in the decision.

Main Issues

7. The main issues are the (a) the effects of the proposal on the living conditions of the occupiers of the new flats, having regard to aspect, outlook, light, overheating, ventilation, noise, air quality, Communal External Space and Childrens Play space, (b) the character and appearance of the area, having regard to the Chiswick House Conservation Area, and (c) whether the housing mix of the development would be acceptable.

Reasons

Living conditions of residents

Aspect

8. Through building conversion and extension, there would be 24 dual aspect and 80 single aspect flats. The single aspect units would be sited on the first to fourth floors. Outwardly, they would face Burlington Lane to the side, the Hogarth Roundabout and the end of the Great West Road to the front, and

² Financial Viability Assessment, Proposed Development at 1 Burlington Lane, Chiswick W4 2RR, Savills, July 2023.

³ HSE response dated 23 November 2023.

Palladian Gardens to the rear. Inwardly, they would face a central 'Atrium' communal open space.

9. LP Policy D6, part C, states housing development should maximise the provision of dual aspect dwellings and normally avoid the provision of single aspect dwellings. Hounslow Local Plan (HLP) 2015-2030 Vol 1 (2015) Policy CC2, part t, states that development proposals reduce reliance on single aspect dwellings. The development has a significant number of single aspect flats. However, both the LP Policy D6 and HLP Policy CC2 parts offer policy flexibility given their language, in particular their use of words, "reduce", and "normally".
10. LP Policy D6, part C, further states that single aspect dwellings should only be provided where it is considered a more appropriate design solution under LP Policy D3, part B, than a dual aspect dwelling and it can be demonstrated that living condition considerations are satisfied, namely daylight, adequate passive ventilation, avoidance of overheating and privacy. Such a policy indicates flexibility where a more appropriate design solution is justified and living conditions are acceptable.
11. Under LP Policy D3, part B, an appropriate design solution is higher density developments generally promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling, in accordance with LP Policy D2 (infrastructure requirements) for sustainable densities). The Public Transport Accessibility Level (PTAL) indicates a low level of accessibility. However, the development would be high density and the policy wording, **where it uses 'generally promoted'**, again indicates flexibility and therefore, does not exclude high density developments not well connected by sustainable transport.
12. Therefore, under LP Policy D6, part C, the acceptability of the single aspect dwellings also has to be considered in the respect of the living condition considerations and this will be considered next.

Outlook

13. LP Policy D3, part D(7), requires proposals to deliver appropriate outlook and amenity. HLP Policy SC6 requires proposals, involving building conversions, to provide a good standard of living conditions, including adequate outlook.
14. There would be single aspect units facing onto the atrium and building beyond this. Nevertheless, the atrium would be attractively landscaped and provide physical separation from the built elements of the scheme. There would be privacy screens and balconies separating the different flats, but these would not impinge on outlook from them, being to the periphery of views looking out from windows. Consequently, there would be adequate and appropriate outlook for new residents, even at lower storey levels.

Daylight/sunlight

15. LP Policy D6, part D, requires development to provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context, whilst avoiding overheating, minimising overshadowing and maximising the usability of outside amenity space. HLP Policies SC6 and CC2 seek to ensure developments provide a good standard of accommodation in terms of light, requiring compliance with prevailing standards and guidance.

16. For daylight, main parties agreed that Spatial Daylight Autonomy (SDA) test under the latest 2022 British Research Establishment (BRE) should be used. The SDA test uses site specific climatic data to calculate daylight illuminance over an assessment grid, representative of an opening, for a fixed time period over a year and assesses whether target illuminance can be achieved across at least half of this grid for at least half of the available daylight hours.
17. The appellant's **Daylight and Sunlight Statement of Case** (DSSC)⁴ indicates that 229 (88%) of the 260 rooms would meet or exceed the SDA values, based on a 150 lx target. Under the BRE guidance, such a target can be considered for mixed use rooms, such as lounge/kitchen/dining rooms, in instances of converted buildings. Of the target transgressions, 27 are living rooms, with 4 of these achieving between 80% and 95% and 9 of these achieving between 60% and 79%. Whilst the remainder have considerably greater deviation, the BRE report stresses that the guidance should be interpreted flexibly, as many elements influence site layout design, and natural lighting is only one of many factors in site layout design.
18. For sunlight, the BRE report details that a dwelling will appear reasonably sunlit, provided that at least one main window faces within 90 degrees due south and a habitable room, preferably a main living room, can receive a total of at least 1.5 hours of sunlight on 21 March. The DSSC details 175 (67%) of the 260 rooms will receive at least 1.5 hours of sunlight and where there are transgressions, they primarily occur to rooms with a northerly aspect or where desired balconied amenity space has been provided above. In terms of living spaces, 66 (64%) of the 104 living spaces would achieve full compliance, with a further 13 marginally transgressing the sunlight test. Within larger developments, especially with site constraints, the revised BRE report details that it may not be possible to have every living room facing 90 degrees south.
19. There are internal corridors between flats which would have no natural light. However, they are throughfares for access and not habitable living areas, and thus, not sensitive living areas.
20. In summary, both policy and BRE guidance are not prescriptive. In built-up locations, it is unlikely that all light standards can be met due to site circumstances, such as proximity of built structures, and particular to this case, the nature of the proposal, a partial conversion of the existing building. Based on the layout plans and what I saw on my site visit, the infringements were **also not significant for occupiers' flats as a whole**, and they benefitted from acceptable living conditions, having regard to light.

Ventilation/overheating and noise

21. Under LP Policy D6, part C, single aspect homes should only be provided subject to adequate passive ventilation amongst other considerations. LP Policy GG3 states to improve health, reduce health inequalities, new buildings should be well-insulated, sufficiently ventilated to avoid health problems associated with damp, heat and cold. LP Policy SI 2 requires overheating modelling in accordance with Chartered Institute of Building Services Engineers (CIBSE) guidance. LP Policy SI 4 further states developments should demonstrate, through an energy strategy, how internal overheating and

⁴ Daylight and Sunlight Statement of Case, Daylight and Sunlight within Proposed Habitable Rooms, 1 Burlington Lane, Lichfields, July 2023.

- reliance on air conditioning systems is reduced in accordance with a cooling hierarchy.
22. For noise, LP Policy D13, part D, states development proposals should manage noise and other potential nuisances by ensuring good design mitigates and minimises existing and potential nuisances generated by existing uses and activities located in the area. HLP Policy CC2 requires noise (and air quality) to be mitigated in affected areas. HLP Policy EQ5 requires noise assessments, the implementation of mitigation measures in compliance with standards and guidance on noise insulation and noise reduction, and demonstration of no harm to amenity through noise from plant and machinery, including ventilation.
 23. With the predominance of single aspect units and sealed window requirements of the **appellant's Noise Impact Assessment (NIA)**⁵, passive ventilation measures, allowing the cross flow of air from one area to another, would be limited but such measures are preferred rather than a necessity under the LP SI 4 policy hierarchy. Furthermore, a range of cooling measures under the hierarchy have been considered, including reduced solar gain through glazing, increased window reveals, overshadowing provided by balconies and heat loss through the building. There would also be the use of Mechanical Heat Recovery Units with overheating fans removing excess heat. In just 13 rooms, there would also be a requirement for air cooling systems.
 24. **The appellant's Overheating Study (OS)**⁶ and Technical Report (TR)⁷, details that rooms would have acceptable temperature control measures, meeting the guidance of CIBSE TM59 and Part O of the Building Regulations 2021. In the absence of comparable evidence to the contrary, significant weight is attached to the OS and TR because they are based on a comprehensive assessment of standards, guidance and policy.
 25. In summary, residents would not suffer from unacceptable overheating or noise. Whilst passive ventilation would be limited for the single aspect units, the scheme's **approach** follows the cooling hierarchy detailed in the LP taking into account constraints, namely the conversion of an existing building. The NIA further demonstrates plant noise would be acceptable, subject to mitigation measures, and that acceptable noise levels can be achieved within the living areas of the development. Residents would use renewable energy sources, photovoltaic roof panels and air source heat pumps, when available, for energy use including that needed for air cooling systems.

Air pollution

26. LP Policy SI 1, part B(1)(2) states development proposals should not create unacceptable risk of high levels of exposure to poor air quality, create any new areas that exceed air quality limits, be air quality neutral and use design solutions to prevent or minimise increased exposure to existing air pollution. HLP Policy EQ4 requires assessment of the impacts of air pollution taking into account the **Council's** Air Quality Supplementary Planning Document (SPD) 2008, the LP and European policy. Where developments could cause or exacerbate air pollution to end users, the policy further requires mitigation measures.

⁵ Noise Impact Assessment report, Report 23202.NIA.01. Rev G, KP Acoustics, October 2022.

⁶ Overheating Study, Version 3.0, 1 Burlington Lane, Hadley Consulting Engineers, July 2023.

⁷ Technical Note, 1 Burlington Lane, W4 1RR Overheating Strategy – Responses to London Borough of Hounslow Appeal Statement, Hadley Consulting Engineers, November 2023.

27. The appeal development would lie within a Borough-wide Air Quality Management Area (AQMA) given high levels of nitrogen dioxide (NO₂) and a Greater London Authority's (GLA) Air Quality Focus Area where the EU annual mean limit value for NO₂ is exceeded. In addition to NO₂, residents would have exposure to fine particulate matters (PM₁₀ and PM_{2.5}). As well as existing pollution, there would be pollution from vehicle usage of the development and the use of a diesel backup generator, although given its emergency nature, this would be a rare occurrence.
28. Part F of the Building Regulations (England) 2010 (as amended) details NO₂, PM₁₀ and PM_{2.5} exposure limits and the Air Quality Standards Regulations 2010 details maximum NO₂ and PM₁₀ limits for certain number of times in a year. The **Appellant's Air Quality Assessment (AQA)**⁸ demonstrated that occupants of the proposed development would not be exposed to pollutant levels conflicting with these requirements through detailing modelling, including at worst-case locations closest to roads.
29. The AQA pre-dates the Environmental Targets (Fine Particulate Matter) (England) Regulations 2022 which set out lower PM_{2.5} limits at DEFRA monitoring stations. There have been high profile cases of poor health outcomes for people where air pollution is a causal factor. The London Environment Strategy 2018 also indicates targets like those of the World Health Organisation.
30. However, the process of developing an approach for the new targets in the planning system is still emerging and in a Written Ministerial Statement, March 2023, the Department for Levelling Up, Housing and Communities stated targets will be integrated into the planning system but until guidance is forthcoming, Councils will be expected to continue to assess local air quality impacts in accordance with existing guidance. The **appellant's Air Quality Technical Note (AQTN)**⁹ details significant complications in predicting and reducing PM_{2.5} **due to the pollutant's long range** nature and being a product of atmospheric chemical processes. Significant weight is attached to such a view given the AQA and AQTN **author's qualifications** and expertise. As yet, new targets have not been incorporated into the building regulations or planning guidance, and therefore, **greater weight is given to the appellant's conclusions** in their AQA and AQTN.
31. Notwithstanding its objections, the Council has recommended a 6 month monitoring pollutant condition to assess the type of filtered mechanical ventilation required. However, it is unclear whether diffusion tube monitoring can measure PM_{2.5}, despite their extensive use, and whilst monitors can be used, they have high degree of error. Therefore, monitoring would be impractical based on the evidence before me. Nevertheless, the appellant has accepted the installation of filtered mechanical filtration for the units facing the road boundaries of the site and given possible policy changes regarding air quality, especially in relation to PM_{2.5}, a precautionary approach requiring filtration for the roadside units would be reasonable and the condition necessary.

⁸ Air Quality Assessment, 1 Burlington Lane, Air Quality Consultants, October 2022.

⁹ Air Quality Technical Note, 1 Burlington Lane, Chiswick, London W4 2RR, Air Quality Consultants, 1 February 2024.

Communal External space and Children Play space provision

32. LP Policy D3 requires developments to provide conveniently located green and open spaces. Under HLP Policy SC5, there would be an approximate 1470m² Communal External Space (CES) requirement. Provision would be at ground level either side of the vehicular car parking access, the atrium central part of the building and a roof top terrace. Based on these areas, there would be a deficiency of approximately 503m². However, the policy indicates that a clear design rationale should demonstrate how benchmark external space standards, **specified in a table have been considered. Therefore, there is no 'hard' and 'fast' rule** that CES should be provided in full if justification is provided.
33. Furthermore, there would be a high quality living conditions created through the atrium CES courtyard and roof top terrace. **SS's** appendix 4 details a high quality design atrium, incorporating raised planting, walkways, benches, water features and feature trees offering areas of attractive landscaping, dappled shade, and seclusion. **The appellant's DSSS** further shows that the atrium would receive direct sunlight for 2 hours on the 21st day of each month for important times of the year. There would be transgressions during autumn and winter months but the 2 hour sunlight availability would be exceeded April to August, when it is likely to be most in use. Whilst more constrained by sedum planting and solar panels, the roof top terrace also show a high quality design with diverse planting, pergolas and climbers providing seated areas with shade and privacy, and balcony areas.
34. For Childrens Playspace (CP), HLP Policy GB9 requires development proposals to contribute to the improvements or expansion of play spaces and provide new spaces, where appropriate, in accordance with the standards set out in the LP. LP Policy S4 states residential developments, to be used by children and young people, should provide good quality, accessible, play provision, for all ages. The policy further indicates a CP provision of 166 m² and the proposal has a slight deficiency of 16m².
35. The CP would be provided at rooftop level but the GLA Shaping Neighbourhoods Play and Informal Recreation Supplementary Planning Guidance (SPG) (2012) indicates that the use of roofs/terraces would provide an alternative to ground floor open space where they are safe, large enough and suitable for children to play. As well as these matters, the SPG also indicates that careful consideration should be given to the need for supervision and any restrictions on the use of the facilities. The CP would be enclosed within a 1.5m balustrade fencing enclosure and although final design has yet to be detailed, play equipment could be sited to ensure safety for users because of the size of it. Such provision would be acceptable with management of the space secured through a condition.

Conclusions on living conditions

36. There was a dismissed appeal¹⁰ for a substantial residential development at the British Gas works site in New Barnet due to daylight/sunlight, noise, overheating and play space, as well as character and appearance. However, every proposal inevitably will be different in its nature, location, application of policies and planning balances. As this previous Inspector noted, in any

¹⁰ APP/N5090/W/22/3294689, Land formerly known as British Gas Works, Albert Road, New Barnet EN4 9SH, August 2022.

scheme, there has to be some flexibility related to its context when considering various requirements for amenity and mitigation. In this regard, the current appeal proposal relates to the conversion and the extension of an existing building justified to a considerable extent on embodied carbon savings compared to a new build. Therefore, the weight attached to this decision is limited.

37. Assessing the appeal proposal on its individual merits, the living conditions of residents would not be compromised by unacceptable outlook, daylight/sunlight, ventilation, noise, air pollution, CET and CP provision. Although air cooling systems would be used, their extent would not be significant. There would be no privacy concerns given separation distance between units from one another across the atrium and the use of privacy screens. The provision of single aspect homes would be justified given the high density nature of the development and because living conditions for occupiers would be acceptable. Air quality objections would be addressed based on current policy and circumstances, subject to a planning condition. The provision of CP would be slightly deficient conflicting with LP Policy S4 and HLP Policy GB9. Nevertheless, in respect of other living condition issues, the proposal would comply with Policies CC2, SC4, SC5, SC6, EQ4 and EQ5 of the HLP and Policies GG3, D3, D6, D13, D14, SI 1, SI 2 and SI 4 of the LP.

Character and appearance

38. The appeal site comprises a substantial building which was formerly offices and comprises part of what is known as the McCormack building. The neighbouring part accommodates a hotel. It is prominently located fronting onto Hogarth Roundabout, the end of the Great West Road, framed by Burlington Lane (A316) and Hogarth Lane (A4) as they come off from the roundabout. Chiswick Gate residential development, including Palladian Gardens, lies to the rear (formerly the Hogarth Business Centre)
39. **Under the Council's** Urban Context and Character Study (2014), the site comes within '**Character Area T (Hogarth Business Park), an area defined as a "small trading estate/business park wedged between Hogarth Lane and Burlington Lane behind Hogarth Roundabout.** This area has been developed for housing and includes the neighbouring Palladian Gardens. Surrounding the appeal site, the area is defined by densely built residential and commercial development subdivided by major arterial roads.
40. The Council has not raised Conservation Area objections, but the site lies within the North Character Area of the Chiswick House Conservation Area. The Conservation Area is diverse and comprises the 18th century Chiswick House and Gardens, along with surrounding late 19th to early 20th century residential areas, and open spaces. The associated appraisal (updated in 2021) identifies the architectural and historic interest of this Grade I listed house and Registered Park and Garden (RPG). The surrounding 19th and 20th century streets have a varied but high design quality in terms of materials and detailing, including bays with sash windows and entrance features. Chiswick House and its parkland and the traditional older terracing, part of the evolution of the area, represent historic and architectural qualities that contribute to significance and special interest.
41. The appeal building has strong vertical and horizontal elevational lines arising from its large window panels enclosed with concrete surrounds and external tall

- semi-circular glazed staircases. It largely matches the neighbouring hotel, but it has a repetitive blocky nature and dark/grey colouring, lack of meaningful articulation and sameness of materials. The appraisal identifies the appeal building as an early 1980s concrete and tinted glass (structure), monolithic and stained, and representing an inauspicious introduction, negative contributor to the character of the Conservation Area. Despite its corner location at the junction of two arterial roads, its design has failed to make the most of its opportunity in a prominent location and it remains unattractive.
42. The enlargement of the existing building outwards towards its front, flank and rear, including over its exposed podium/base, and the addition of two new storeys would result in a substantial size change. Numerous representations have been made about its height, scale and massing. However, whilst being on a prominent site, it is separated from its surrounding context by strong spatial features. There is the Hogarth Roundabout with a flyover above, to the front, Burlington Lane, a road of significant width, with two generous sized single lanes, either side of an inclined lane for the flyover, to the flank. It is also separated from the development to the rear by an access road and amenity area.
43. The appeal building would also be physically articulated with the ground floor (including the mezzanine) stepped back behind brick masonry elevations above, to the front, flank and rear. The roof top storey would be similarly recessed behind the outer extended perimeter of the building. The corners of the building would be chamfered and stepped. Although articulated to a lesser degree, glazing within the main facades would be recessed within their framed surrounds. They themselves would project subtly beyond these masonry elevations giving rise to a finely textured appearance.
44. In views down Great West Road, the new building would be higher than the neighbouring hotel by reason of an additional storey and there would be a forward projection relative to the adjacent hotel, comprising a blank high wall. **The building's** architecture would be different to the adjacent hotel. However, the additional storey would be stepped back, and the top and bottom level cornices of the main façade would align with that of the podium/base and the roof of the hotel, remaining.
45. The design and materiality of the new building would be an improvement over the existing building. Within the elevations, the use of red-multi brick and regularly spaced openings connects with common design features of surrounding buildings within the Conservation Area. To add design interest, there are also contemporary features, such as cream cornices, panels and opening surrounds, within the facing brick. The rooftop storey would comprise modern dark coloured panelling and glazing within a portal frame.
46. At the ground floor, the existing base/podium has extensive inactive frontage areas with few openings. Although inactive frontage areas would remain, the appeal proposal would be an improvement with greater number of entrances and windows. There would also be decorative screens hiding the parking areas and the stepping back of this ground floor element. With further landscaping, it would be a significantly improved and welcoming environment for pedestrians.
47. For all these reasons, the proposal would be of a high quality design appropriate for this prominent and wayfinding location, and improvement on

the existing townscape. It would enhance the character and appearance of area, including the Chiswick House Conservation Area and would comply with Section 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. Accordingly, the proposal would comply with Policies CC1, CC2 and CC4 of the HLP, and D3 and D4 of the LP, which collectively and amongst other matters, requires development to respond meaningfully and sensitively to a site, its constraints, characteristics, layout and proportions of surrounding buildings, promote and support contemporary architecture whilst ensuring it is rooted in local context, conserve and take opportunities to enhance the Conservation Area and be of a high quality design, with architecture that pays attention to detail.

Housing mix

48. The new flats comprise 57 one bedroom (55%), 39 two bedroom (37%), 8 three bedrooms (8%) units. HLP Policy SC3 details that an appropriate mix of housing will be provided in accordance with a table, unless otherwise agreed with the Council on the basis of evidence. The table summarises mix requirements as 30% 1 bedroom; 40% 2 bedroom and 25% 3 bedroom. Under the policy, the Council will achieve housing mix by negotiation and will use the table as the starting point for the consideration of housing proposals.
49. For the Borough, **the Council's Strategic Housing Market Assessment (SHMA) 2018** details 10% 1 bedroom, 23% 2 bedroom, 54% 3 bedroom and 13% 4 bedroom. For the Chiswick ward, the 2021 census data indicates larger family housing, 3 bedroom and 4 bedroom, amounting to 54% and 1 bedroom equating to 18% of housing stock.
50. The SHMA is a Borough wide assessment but there is no evidence of need for different types of accommodation in the appeal site area before me. The census data provides a factual statement of existing housing mix but not evidence of need for different housing. Indeed, the proposed housing mix significantly departs from the Policy SC3 table and SHMA.
51. LP Policy H10 states schemes should generally consist of a range of unit sizes and that to determine the appropriate mix of bedroom sized units, regard should be had to various considerations. In this regard, the proposal would deliver a mixed and inclusive neighbourhood, a range of unit types at different price points, mix of uses and tenures. However, in respect of mix, it indicates regard should be had to local evidence of need where available and where this is not available, the range of housing need and demand identified by the 2017 London SHMA. **There is no evidence that the proposal's mix compares favourably with the London SHMA.**
52. The explanatory text of HLP Policy SC3 indicates that the Council will take account of housing need evidence, special characteristics of the site and the results of monitoring of recently completed development. Such text indicates considerations, such as whether the nature of the development, utilising an existing building, should be taken into account, but this is relevant to determining the proposal as a whole. Such text is not part of the HLP Policy SC3. For all these reasons, the proposal would not provide appropriate housing mix and there would be conflict with HLP Policy SC3 and LP Policy H10.

Other matters

53. The proposal would assist in providing 104 new homes in the Borough boosting housing supply. The Borough has a surplus 5 Year Housing Supply and the 2021 Housing Delivery Test shows significant delivery rate compared to other London Councils. However, HLP Policy SC1 applies a presumption in favour of sustainable development of new homes, particularly the conversion of homes, and states the Council will seek to deliver a considerable amount of new homes between 2015 and 2030. The Government has also an objective of significantly boosting the supply of homes as indicates within the Framework. Given the scale of the proposal, these requirements would be met in a meaningful way within the Borough.
54. Through repurposing, the proposal would provide high quality and flexible ground floor space, meeting employment needs of the Borough, in line with the aspirations of HLP Policy ED2. It will bring back into use a vacant building. The residential occupiers would generate greater demand for local shops and services, and the use of public transport than the previous use and there would be an uplift to the local economy through greater expenditure. Such considerations would weigh substantially in favour of the proposal.
55. The scheme is seeking to achieve a net-zero carbon building, in accordance with a Sustainability Statement (SS)¹¹. The SS states the building would achieve a substantial carbon reduction over the requirements of the Building Regulations. Through the re-use of the existing structure and careful specification of construction materials, there would be a high level of embodied energy saved compared to a wholly new build development. As part of an energy strategy, solar panels and heat pumps would be installed. Consequently, there would be significant sustainability benefits supported by LP Policy S12 (Minimising Greenhouse Gas Emissions) and S13 (Energy Infrastructure) and HLP Policies EQ1 (Energy and Carbon Reduction) and EQ2 (Sustainable Design and Construction). Paragraph 164 of the Framework further indicates significant weight should be given to the need to support energy efficiency and low carbon heating measures to buildings, both domestic and non-domestic. Allied with improvements to the character and appearance of the area, these housing, economic and environmental benefits, would weigh substantially in favour of the proposal.
56. On Burlington Lane, there are Grade II listed buildings at 1 Chiswick Square, 2 Chiswick Square, the George and Devonshire Arms Public House and 1-3 **Page's** Yard, opposite the appeal site. Diagonally across from the building beyond the Hogarth roundabout, there is a Grade II listed Post Office building. These assets date from 17th/18th century. They derive architectural value through their plan forms, original fenestration and decorative detailing, and group value in depicting evolving built development within the area. There is visual coherence, material treatment and decorative detailing, between the assets adjoining Burlington Lane. Such historic and architectural qualities contribute to significance and special interest.
57. These assets' proximity to the appeal site results in intervisibility but there is marked separation provided by significant road infrastructure and the area, as a whole, has experienced significant 20th century/early 21st century development. The existing appeal building is unattractive and although higher

¹¹ Sustainability Statement, Revision 2.0, 1 Burlington Lane, Hadley Consulting Engineers, October 2022.

- and larger, the development with its contextual design, would be a positive contributor to the area. For all these reasons, it would not affect the understanding of these assets and would not affect their settings.
58. There are further heritage assets in the area, Grade 1 listed Hogarth House, with its associated wall and gate, dating to the 18th century, the Grade II listed Convent of St Mary/Hospital of St Joseph dating to the late 20th century, the Grade II* listed Church of St Michaels, dating to 15th century (partially rebuilt in the 19th century) and the Grade I listed Chiswick House and RPG. Their significance and special interest derive from built fabric, architectural detailing and age. Hogarth House also has a particular artistic association whilst the RPG contains extensive pleasure gardens and listed buildings and structures developed by former patron, Lord Burlington.
59. However, intervisibility between these assets and the appeal site is limited. Lack of invisibility does not solely determine setting, but they are separated by significant distance and a densely built up environment. Even those assets with wider public presence, including Chiswick House and RPG, are obstructed from the appeal site by significant built development of more recent date. As such, these assets would not be in area from which the significance and special interest of these heritage assets would be appreciated.
60. Based on empirical evidence, the **appellant's Transport Statement** demonstrates that the development would generate significant reduction of trips at peak times compared to the previous office use. The proposed access and egress arrangements would be as this previous use. For both the flats and ground floor office /commercial use, vehicular and cycle parking would be provided in accordance with LP policy and guidance. A parking management plan would ensure the effective management of vehicular spaces and the implementation of a travel plan would encourage sustainable transport to be taken up by residents. For all these reasons, there would not be an unacceptable impact on highway safety and the residual cumulative impacts on the road network would not be severe.
61. During development of the site, there would be construction disturbance, but this would be restricted to the duration of building works. Conditions can be imposed to minimise noise, dust and emissions during construction. The separation distance between the rear of the built development and neighbouring residential development would ensure no significant loss of privacy for existing and new residents. **The appellant's** External Daylight and Sunlight Report¹² demonstrates that neighbouring properties would receive acceptable day and sunlight based on the assessment of BRE guidance. Based on the built and spatial context observed on my site visit, I would concur with such a view.

Planning Obligations

62. The Council has detailed a Community Infrastructure Levy Compliance Schedule (CILCS)¹³ for the s106, including reference to relevant planning policies. It details that the carbon offset contribution would be in accordance with LP Policy SI 2. There would be a construction training contribution to be put towards construction phase training in the area, if the appellant does not

¹² External Daylight and Unlight Report, 1 Burlington Lane W4, Robinsons, September 2022.

¹³ Local planning authority CIL Compliance Schedule, 1 Burlington Lane, February 2024.

- have an appropriate training scheme in place. An employment initiatives contribution would be put towards training and/or job brokerage programmes, including end-phase training. The cycle training contribution would be for future residents of the scheme to encourage sustainable modes of transport.
63. To offset the shortfall of CET and CP, contributions would be made in accordance with LP and HLP policy. A healthy streets contribution relates to access and safety improvements, including to underground subways, retrofitting SuDs around the nearby subway access points and surface stop lines for cyclists in accordance with a Transport for London (TfL) consultation, based on a scheme design. The Legible London Contribution would be for signage in accordance with a TfL scheme and costings. The tree planting contribution would be used for planting along Burlington Lane and Hogarth Lane.
64. An obligation requires the adherence to a considerate contractor scheme in the interests of good neighbourliness and highway safety. To ensure Early and late stage financial viability obligations provide for affordable housing if viability shows a financial surplus. To encourage sustainable transportation and reduce emissions, obligations require a residential travel plan and operation of a car club. To ensure continuity of design, a retention **of the scheme's** architect obligation is necessary. If it is to come forward, an obligation safeguarding a route and connection with the District Heating Network is required. To ensure the provision of off-site highway works, an obligation is necessary for the entering into of a highway agreement. To ensure car-free housing, an obligation requires the **developer to inform occupiers that the Council's policy** is to not issue parking permits for them in the area (unless the occupier has a disabled badge exemption). An obligation for contributions which would recover costs associated with the monitoring and processing of obligations is necessary.
65. Obligations would be in accordance with HLP and LP policies, and where relevant, **the methodology and formulae of Council's Planning Obligations and CIL SPD (2015)**. For all these reasons, the obligations are necessary to make the development acceptable in planning terms and the statutory tests of the Community Infrastructure Levy (CIL) Regulations 2012 (as amended) and those of paragraph 57 of the Framework would be met. They are necessary, directly related to the development and fairly and reasonably related in scale and kind.
66. An obligation for a healthcare contribution payment has been disputed. Hounslow NHS services, including GP surgeries, are operating significantly above capacity and the contribution would be used to provide additional health capacity within Chiswick Primary Care Network, preferably Grove Park surgery. NHS London Healthy Urban Development Unit considers it unrealistic to anticipate where planning applications will be made across the Borough and their impact on health and other infrastructure. Therefore, mitigation needs to be assessed when applications are considered. CIL already allocated for health has led to substantial health facilities serving wider catchment areas but not for the mitigation of individual site specific proposals. However, requesting s106 contributions conflicts with the SPD which sets out health facilities will be funded by CIL. The appellant has further indicated the most recent Council Infrastructure Funding Statement sets out Health infrastructure is CIL funded.

In the absence of clarity, no weight can be given to this provision, and it has not been taken into account in this decision.

Planning Balance

67. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications for planning permission to be determined in accordance with the development plan unless material considerations indicate otherwise.
68. Living conditions of residents would not be harmed, having regard to aspect, outlook, daylight/sunlight, privacy, ventilation/overheating and noise, air pollution, and the provision of outdoor space. In this case, the number of single aspect residential units would be acceptable in this location. There would be improvements to the character and appearance of the area, with enhancement of the Conservation Area. In respect of living conditions and character and appearance, there would be compliance with HLP and LP policies that have been identified. Given the deficiency in children play space provision, there would be conflicts with LP Policy S4 and HLP Policy GB9. The proposal would result in a poor housing mix in conflict with Policies of HLP and LP.
69. As such, development plan policies pull in different directions, with compliance and conflict in respect of the issues. However, the conflicts with LP Policy S4 and HLP Policy GB9 are of a small technical nature and there would be substantial housing, employment, economic and environmental benefits, including embodied carbon savings, which are supported by HLP and LP policies. For these reasons, the proposal would comply with the development plan when its policies are taken as a whole. Even if there was a conflict with the development plan, the weight of the benefits as material considerations indicates that the decision should be taken otherwise than in accordance with it. As the proposal is acceptable for all these reasons, there is no requirement to consider submissions on the fallback position. The appeal succeeds and conditional planning permission is granted.

Conditions

70. Suggested conditions have been considered in light of the tests of paragraph 56 of the Framework and the advice in Planning Practice Guidance. Some have been amended, shortened and amalgamated in the interests of clarity and precision taking into account the tests and guidance. There are pre-commencement condition requirements for the approval of details where they are a pre-requisite to enable the development to be constructed. The appellant has raised no objection to these. In some instances, references to compliance with technical guidance and procedures has been omitted in the interests of precision, the superseding of such documentation over time, and the control exercised by the Council in approving or otherwise of relevant details.
71. A condition requiring that the development to be carried out in accordance with the details shown on the plans is necessary in the interests of proper planning and for the avoidance of doubt. In the interests of highway safety and sustainable transport, conditions are necessary requiring the implementation of an agreed Construction Environment Management Plan, access, parking including accessible bays, cycle parking, commercial vehicle delivery and management plan, pedestrian access and car parking management plan.

72. To secure an acceptable air quality environment, conditions are necessary to secure air quality mitigation for construction, filtered mechanical ventilation, glazing and ventilation designs/specifications. To safeguard human health and the environment, conditions are necessary to consider possible contamination and secure oil interceptors for car parking areas. In the interests of a secure socially inclusive and sustainable development, a condition is necessary to secure wheelchair accessible homes and accessible and adaptable dwellings in accordance with building regulations, and an inclusive access strategy. To prevent flooding, drainage conditions are necessary.
73. In the interests of biodiversity and the environment, conditions are necessary to secure an ecological management plan, tree protection, landscaping and green roofs. Noise conditions are necessary to ensure living conditions of residents would not be compromised. To secure a planned living environment, implementation of agreed measures for the storage of waste and recycling materials are necessary. Condition requiring a revised Fire Safety Strategy, including a core staircase upgrade and fire excavation lift, is required given HSE comments. For the sake of the character and appearance of the area, implementation of approved details of materials and architectural features, and landscaping are necessary.
74. A condition is necessary to ensure sustainable sourcing of materials to address biodiversity loss and climate change. In the interests of preventing crime, a condition is necessary to implement 'Secure by Design' measures. To address climate change and minimise natural resource use, conditions are necessary to implement the development in accordance with the submitted energy strategy, monitor energy use, green roofs, BREEAM certification, photovoltaic panels, and restriction on water use. In accordance with LP Policy SI 6, a condition requires details of digital connectivity. In the interests of residential amenity, a condition is necessary securing restriction of the commercial use opening hours.
75. Given building regulation requirements, there is no justification for the Electric Vehicle Charging points. Restricting commercial use is not necessary and for this use, there is no evidence to withdraw permitted development rights for any change of use. Although a care-free development is justified, the condition preventing occupiers (other than blue-badge holders) is unnecessarily restrictive and not land-use related. In any case, an obligation requirement phrased in a different manner serves the same purpose.

Conclusion

76. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be allowed.

Jonathon Parsons

Inspector

Schedule A attached conditions

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans: 2324-L-01; 2324-X-01; 2324-X-02; 2324-X-03; 2324-X-04; 2324-X-05; 2324-X-06; 2324-X-07; 2324-X-08; 2324-X-09; 2324-X-10; 2324-X-11; 2324-X-12; 2324-X-13; 2324-X-14; 2324-X-15; 2324-P-01 Rev A; 2324-P-02 Rev A; 2324-P-03; 2324-P-04 Rev A; 2324-P-05; 2324-P-06; 2324-P-07; 2324-P-08 Rev A; 2324-P-09 Rev A; 2324-P-10 Rev A; 2324-P-11; 2324-P-012; 2324-P-13; 2324-P-15; 2324-P-17; 2324-P-18; 2324-P-20; 2324-P-21; 2324-P-22; 2324-P-23; 2324-P-40 Rev A; 2324-P-41 Rev A; 2324-P-50 and 2324-P-60.
- 3) No development shall take place, including any demolition works, until a revised Construction Environmental Method Statement (CEMP) has been submitted to and approved in writing by the local planning authority. The CEMP shall specify the location and details of:
 - i. welfare facilities, site/office parking for site operatives and visitors;
 - ii. plant and materials construction storage;
 - iii. a pre-start record of site conditions on the adjoining public highway and commitment to repair any damage during construction;
 - iv. parking of vehicles of site operatives and visitors;
 - v. provisions for loading, unloading and storage of plant and materials within the site;
 - vi. access to the site, including means to control and manage vehicular access and egress to and from the site for the duration of construction including phasing arrangements;
 - vii. vehicle routeing from the site to the wider strategic road network;
 - viii. erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - ix. wheel washing facilities at the site and for adjacent roads;
 - x. a scheme for recycling/disposing of waste resulting from demolition and construction works;
 - xi. measures to ensure the safety of all users of the public highway, including cyclists and pedestrians;
 - xii. liaising arrangements with other contractors in the vicinity to minimise construction vehicle movements;
 - xiii. arrangements to avoid peak hours deliveries and booking system to avoid vehicles waiting on the public highway;
 - xiv. all necessary traffic orders and other permissions required to allow safe access to the site to be secured and implemented prior to commencement of construction;
 - xv. construction programme and a schedule of traffic movements;
 - xvi. details to ensure operators **that are members of Tfl's Freight Operator Recognition Scheme (FORS) accredited or better;**
 - xvii. park/stop locations of work vehicles;
 - xviii. identification of different construction phases;
 - xix. procedures for maintaining good public relations including complaint management, public consultation and liaison;
 - xx. measures to mitigate against noise and vibration; and

xxi. details of working hours, which unless otherwise agreed beforehand by the local planning authority, shall be limited to 08:00 to 18:00 hours Monday to Friday and 08:00 to 13:00 hours Saturday.

The approved CEMP shall be adhered to throughout the construction period.

- 4) No development shall take place, including any works of demolition, until a contamination remediation plan has been submitted to, and approved in writing by the local planning authority. The plan shall provide:
- i) details of an intrusive site investigation in addition to the phase 1 desk study previously submitted. These details shall be submitted to and approved in writing by the local planning authority. The site shall be investigated by a competent person to identify the extent and nature of any contamination. The report shall include a tiered risk assessment of the contamination based on the proposed end use of the site.
 - ii) if following the results of the intrusive site investigation above, a scheme for decontamination of the site shall be submitted to the local planning authority for written approval.
 - iii) during the course of development, the local planning authority shall be notified immediately if additional contamination is discovered during the course of construction. A competent person shall assess the additional contamination, and shall submit appropriate amendments to the scheme for decontamination in writing to the local planning authority for approval before any work on that aspect of development continues.
Before the development is first brought into use:
 - iv) the agreed scheme for decontamination referred to in clauses ii) and iii) above, including amendments, shall be fully implemented and a written validation (closure) report submitted to the local planning authority for written approval.
- 5) No development shall take place, except demolition, intrusive site surveys and other enabling works (site clearance, soil storage, remedial works for contamination or any other adverse ground conditions, erection of any temporary means of enclosure and land raising), until a scheme of air quality mitigation has been submitted to and approved in writing by the local planning authority. The submitted scheme must include details of any required mitigation, taking into account planning policies and guidance, and cover the following:
- i) measures to control emissions during the construction phase relating to earthworks, demolition, construction and trackout should be written into an Air Quality and Dust Management Plan.
 - ii) dust risk, to ensure that surrounding sensitive receptors are not exposed to fugitive dust emissions;
 - iii) emissions for the emergency generator;
 - iv) non-road mobile machinery; and
 - v) potential air quality pollutant concentrations at any modelled receptor locations, due to an uplift in vehicle movements and their associated emissions.

The mitigation must then be carried out in accordance with the approved details. The development shall not include biomass boilers.

- 6) No development shall take place, including any demolition works, until an Ecological Management Plan (EMP) shall be submitted to and approved in writing by the local planning authority. The EMP shall incorporate details of:
- i) measures to protect breeding birds, nests and eggs from mortality/damage, injury and disturbance during construction and development completion;
 - ii) ecological clerk of works supervision to monitor the clearance of vegetation to ensure no impact on undiscovered or other unexpected faunal encounters;
 - iii) removal, long-term management or eradication of the invasive species found on the site;
 - iv) implementation of ecological enhancement, biodiversity net gains and an urban greening factor, including how a minimum urban greening factor of 0.4 and a 10% biodiversity net gain are to be delivered and achieved;
 - v) monitoring, management and maintenance of enhancement measures, including the long-term design objectives, management responsibilities and maintenance schedules;
 - vi) location and type (including specifications) of bird boxes, including sparrow terrace and starling and ecological enhancements, including insect blocks, associated maintenance and any data collected is to be shared with the Council; and
 - vii) species surveys within and around the site to demonstrate ecological enhancements.

The development shall then be carried out in strict accordance with the approved details. All removal of trees, hedgerow, shrubs or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible, then a qualified ecologist shall check the areas concerned immediately prior to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present, then the vegetation shall not be removed until the fledglings have left the nest.

- 7) A minimum of 10% of the approved homes shall be provided as **'Wheelchair Accessible Homes' built to Building Regulations M4(3) 2b** standard. No development shall take place until details of wheelchair accessible homes shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the wheelchair accessible homes shall be retained thereafter.

All other dwellings shall meet the Approved Document M M4(2) (**'Accessible and adaptable dwellings'**).

- 8) Notwithstanding the approved plans, no development shall take place shall take place until finalised drainage design and strategy shall be submitted to and approved in writing by the local planning authority. This shall comprise:
- i) drawings and supporting calculations, and an updated Drainage Assessment Form to reflect the submitted details including the courtyard;

- ii) details of how the drainage for the development accords with the sustainable drainage principles, makes use of green infrastructure technology, and a runoff rate not exceeding 2 litres/second;
- iii) details of drawing showing the drainage system of internal balconies; and
- iv) management plan confirming routine maintenance tasks for all drainage components to demonstrate how the drainage system is to be maintained for the lifetime of the development.

The development shall thereafter be carried out in accordance with the approved details prior to the first occupation of the building.

- 9) No development shall take place until the following details have been submitted to and approved in writing by the local planning authority:
- i) a plan showing the position of every tree on the site and on land adjacent to the site (including street trees) that could influence or be affected by the development, indicating which trees are to be removed;
 - ii) a schedule in relation to every tree identified listing species, diameter and approximate height, and an assessment on the general state and stability of each tree, in accordance with BS 5837: Trees in relation to design, demolition and construction - Recommendations) (or in an equivalent British Standard if replaced); and any proposed pruning, felling or other work;
 - iii) any proposed alterations to existing ground levels, and of the position of any proposed excavation, that may affect the root protection area of retained trees; and
 - iv) details of the fencing to be installed for the protection of retained trees.

The development shall not be carried out otherwise than in accordance with the approved details, which shall be put into effect at the commencement of work on the site and retained permanently for the duration of the development works.

- 10) No development (except any demolition, site clearance, ground investigation and remediation work) shall take place until details have been submitted to and approved by the local planning authority of a scheme providing for the insulation of the proposed dwellings against the transmission of externally generated aircraft, road and rail noise (and vibration), taking account of any ventilation requirements necessary, in order to ensure that the maximum noise levels permitted within the dwellings will not exceed those that are specified in Table 4 of British Standard 8233: 2014 [Living Rooms = 35 dB LAeq, 16 hours; Dining room/area = 40 dB LAeq, 16 hours; Bedroom = 35 dB LAeq, 16 hours during day-time (07:00 - 23:00) and Bedroom = 30 dB LAeq, 8 hours during night-time (23:00 - 07:00)], or any equivalent standards if replaced.

Noise levels within bedrooms do not exceed 45 dB L_{max} more than 10 to 15 times per night. All occupiers should have access to amenity spaces where noise levels do not exceed 50dB LAeq, 16 hours. The maximum noise levels described must be achieved during background ventilation rates as defined in Part F of the Building Regulations.

Before the development hereby permitted is first occupied or brought into use, post-completion noise tests shall be carried out by accredited/approved organisations with competence in environmental noise assessments for residential accommodation and test reports shall be submitted to and approved in writing by the local planning authority. Noise tests shall be carried out taking account of worst case environmental conditions, such as easterly operations at Heathrow, peak time traffic flows, wind speed and direction, and presence of temperature inversion. Continuous logged data shall be submitted.

- 11) No development (except any demolition, site clearance, ground investigation and remediation work) shall take place until full details of the arrangements for the storing of waste and recycled materials (including details of how the placing of waste and recycled materials in a suitable location for collection would be undertaken and managed) have been submitted to and approved in writing by the local planning authority. The development shall not be carried out otherwise than in accordance with the approved details.
- 12) No development shall take place until a revised Planning Fire Safety Strategy, including the upgrading of a protected stairway, has been submitted and approved in writing by the local planning authority. The development shall be carried out in accordance with the strategy and shall be maintained in accordance with the approved details at all times thereafter.
- 13) Prior to the commencement of superstructure works, an Inclusive Access Strategy shall be submitted to and approved in writing by the local planning authority, which shall include: entrance (commercial and residential) and movement through the buildings ensuring a full automated solution, and how any level changes around the site would be overcome; details of play space provision, including a choice of equipment to engage children of various ages and abilities; and details of seating suitable for disabled carers and proposed furniture on the public realm, and lighting. The approved details shall be implemented fully before the development hereby permitted is first occupied or brought into use and shall be retained as such thereafter.
- 14) Prior to the commencement of above ground works, details of enhanced sound insulation of lifts and lift shafts, in accordance with noise limits in Table 5 BS8233:2014, shall be submitted to and approved in writing by the local planning authority. Where noise emissions include characteristic features, the Noise Rating level shall not exceed NR20 Leq 5mins inside a habitable room. Details shall include mitigation measures and the resulting sound insulation value and internal sound/rating level.

Approved details shall be implemented prior to the occupation of the development and thereafter be permanently retained.

- 15) Prior to the commencement of above ground works, details shall be submitted to and approved in writing by the local planning authority demonstrating that a minimum of at least one lift per core (or more subject to capacity assessments) will be a suitably sized fire evacuation lift, suitable to be used to evacuate people who require level access from the building. The development shall be carried out in accordance with

these details and maintained as such in perpetuity. All passenger lifts serving the homes hereby approved shall be fully installed and operational prior to the first occupation of the relevant core of development served by a passenger lift.

- 16) Prior to the commencement of above ground works (except any demolition, site clearance, ground investigation and remediation work) shall take place until samples and details of all materials to be used in the construction of the external surfaces of the development hereby permitted shall be submitted to and approved in writing by the local planning authority. Such samples and details shall specify: brick (including brick, feature brick panel (on the site), brick framing feature; concrete/stone materials; metal cladding; roof covering(s); window treatment (including sections/reveals); soffits and entrance canopies; all privacy measures, (including obscure glazing details and privacy screens); rainwater goods; hard landscaping; any other materials/details to be used.
- 17) Prior to the commencement of above ground works, detailed drawings at a scale of 1:20 (or other scale to be agreed in advance by the local planning authority) shall be submitted to and approved by the local planning authority. Such details shall specify; elevational bay studies, window reveals and screening; details of obscure glazed windows; window frames; entrance doors and external door frames; junctions between changes in materials; brick articulation; fenestration detailing; roof/parapet detailing. The development shall then be carried out in accordance with the approved details and maintained as such thereafter.
- 18) Filtered mechanical ventilation shall be installed at the façades of units 111 to 125 (1st floor), 211 to 225 (2nd floor), 311 to 325 (3rd floor), 409 to 421 (4th floor) and 504 to 508 (5th floor) in accordance with details that shall previously have been submitted to and approved in writing by the local planning authority. The installed measures shall be permanently retained thereafter.
- 19) No part of the development hereby approved shall be occupied until evidence, including photographs and copies of installation contracts, has been submitted to the local planning authority and approved in writing to demonstrate that the sustainable drainage scheme hereby permitted has been completed in accordance with the submitted final detailed drainage designs. The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan for all of the proposed drainage components.
- 20) No part of the development shall be occupied until details of the sustainable sourcing of materials has been submitted to and approved in writing by the local planning authority. Such details shall meet the following requirements:
 - i. at least three of the key elements of the building envelope (external walls, windows roof, upper floor slabs, internal wall, floor finishes/coverings) are to achieve a rating of A+ to D in the Building Research Establishment Green Guide of Specification (or equivalent rating if superseded);

- ii. at least 50% of timber and timber products to be sourced from accredited Forest Stewardship Council or Programme for the Endorsement of Forestry Certification scheme; and
 - iii. no construction or insulation materials to be used which will release toxins into the internal and external environment, including those that deplete stratospheric zone.
- 21) Notwithstanding the details on the approved plans, no development shall take place until details of hard and soft landscaping, play equipment, lighting, planting, hard and soft surfaces, and boundary treatment shall be submitted to and approved in writing by the local planning authority and retained as such thereafter. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and 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.
- 22) Prior to the first occupation of the development and notwithstanding the submitted plans, full details of accessible parking bays shall be submitted to and approved in writing by the local planning authority. The bays shall be installed in accordance with the approved details and so maintained at all times thereafter.
- 23) Prior to the first occupation of the development, details of the highway works to ensure safe access, supported by a Stage 1 and 2 Road Safety Audit, shall be submitted and approved in writing by the local planning authority. The approved details shall be implemented on site prior to the occupation of any part of the development.
- 24) Prior to the first occupation of the development and notwithstanding the submitted details, full details (the number, location, design of structure, **manufacturer's specifications** of long and short stay spaces) of all cycle stands for the occupants of, and visitors to, the development (including residential and commercial uses) shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use before any part of the development is first occupied and thereafter retained for use at all times without obstruction.
- 25) Prior to the first occupation of the development, a scheme detailing 'Secure by Design' measures shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the measures have been implemented unless otherwise agreed in writing by the local planning authority.
- 26) The development, hereby permitted, must be carried out in accordance with the approved Energy Statement (dated 18 October 2022 Rev 1.0). Upon final commencement of operation of any low and zero-carbon technologies, performance data for energy consumption must be submitted to and approved in writing by the local planning authority. The performance data shall be submitted every 18 months to a monitoring web-platform for a period of three years from the point of full operation.

- 27) Prior to the first occupation of the development, evidence (schedule of installed fittings and manufactures' **specifications**) shall be submitted to and approved in writing by the local planning authority to demonstrate that the development has achieved an internal water use of 105L/person/day or less. Measures integrated shall be retained for the lifetime of the development.
- 28) Before the development hereby permitted is first occupied or brought into use, the submitted Delivery and Servicing Plan, reference 4107/2022 Rev C, has been fully implemented and maintained for the lifetime of the development unless the prior written approval of the local planning authority is obtained to any variation.
- 29) The development hereby approved shall not be occupied until full details of the narrowing of the Burlington Lane egress point, to improve the pedestrian crossing, have been submitted to and improved in writing by the local planning authority. The approved highway works shall be implemented prior to the occupation of the development and retained for the lifetime of the development unless otherwise agreed in writing by the local planning authority.
- 30) The cumulative noise from any fixed external plant associated with the scheme should not exceed levels more than 10 dB below representative background (LA90) levels at free field locations representing facades of nearby existing and proposed dwellings. Noise levels should be assessed by measurement or calculation based on the guidance presented within BS4142: 2014+A1:2019 or subsequent versions of this guidance.
- 31) The glazing and ventilation designs/specifications for the residential units shall comply with the submitted Noise Impact Assessment report, Report 23202.NIA.01 Rev G, to achieve the design target internal noise levels set out within that document.
- 32) Notwithstanding any details included in the submitted plans, no development above ground level (except any demolition, site clearance, ground investigation and remediation work) shall take place within the relevant phase (or part therein) until full details of the proposed green roofs shall have been submitted to the local planning authority for approval in writing, including planting schedules and maintenance and management arrangements. Details shall include: a) construction drawings to include plan and cross sections; b) native wildflower seed mix (turf or sedum blanket will not be accepted); c) substrate between 80mm-150mm in depth; undulating and contain different materials/sizes (sand, gravel, crushed ceramic, brick, recycled, inert materials); d) small piles of untreated logs; e) no irrigation; f) confirmation that the green roof construction will be supervised by a suitable qualified landscape/ecology contractor. The approved details shall be implemented and retained permanently thereafter.
- 33) The development, unless otherwise agreed in writing, shall achieve an 'Excellent' rating and all mandatory BREEAM 'Excellent' credits under BREEAM UK New Construction 2018 (or such equivalent standard that replaces this) for the Shell stage and an 'Excellent' rating under BREEAM Refurbishment and Fit-out 2014.
 - A. Prior to the occupation, a BREEAM UK New Construction 2018 (or such equivalent standard that replaces this) for the Shell pre-assessment

report shall be submitted and approved in writing by the local planning authority to demonstrate how the creative workspace will achieve an 'Excellent' rating and all mandatory BREEAM 'Excellent' credits.

- B. Within 3 months of first occupation, unless otherwise agreed in writing, a BREEAM UK New Construction 2018 (or such equivalent standard that replaces this) for the Shell Final (Post - Construction) Certificate, issues by the BRE (or equivalent accredited body), must be submitted to and approved in writing by the local planning authority to demonstrate that an 'Excellent' rating and all mandatory BREEAM 'Excellent' credits. All the measures integrated shall be retained for as long as the development is in existence.
 - C. Within 3 months of first occupation, unless otherwise agreed in writing, a BREEAM Refurbishment and Fit-out 2014 Final (Post-Construction) Certificate, issued by the BRE (or equivalent accredited body), must be submitted to and approved in writing by the local planning authority to demonstrate that an 'Excellent' (unless otherwise agreed with the local planning authority) rating has been achieved. The scope of the assessment shall include as a minimum: Core Services, Local Services, and Interior Design. All the measures integrated shall be retained for as long as the development is in existence.
- 34) Prior to the first occupation of each phase of the development, details of the specifications (regarding power), number, appearance, location, orientation, total area and predicted carbon savings from the photovoltaic panels shall be submitted to and approved by the local planning authority to show how the renewable energy carbon savings are to be achieved and maximised. The photovoltaic panels shall be installed in accordance with the approved details prior to the occupation of the relevant part of the development and retained and maintained as such unless otherwise agreed by the local planning authority.
 - 35) Prior to the first occupation of each phase of development hereby approved, details of digital connectivity for the proposed development shall be submitted to and approved by the local planning authority. It shall be demonstrated that ducting space would be provided to achieve for full fibre connectivity infrastructure for future occupiers, unless an alternative 1GB/s-capable connection can be provided.
 - 36) Prior to the first occupation of each phase of the development, details of petrol/oil interceptors to be fitted in all car parking areas shall be submitted to and approved by the local planning authority. The petrol/oil interceptors shall be installed in accordance with the approved details prior to the occupation of each phase of the development and retained and maintained as such unless otherwise agreed by the local planning authority.
 - 37) The development hereby permitted shall be implemented in accordance with the approved Energy Strategy and shall be constructed to comply with the Greater London Authority (GLA) '**Be Seen**' energy monitoring requirements as set out below for a minimum period of five years from first occupation, for each phase:

- A. Prior to the commencement of above ground works within each phase of the development, excluding demolition and site clearance works, **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 shall be submitted to the GLA's monitoring portal and local planning authority for information.**
- B. Upon the **completion of the 'as-built' design for each phase (upon commencement of RIBA Stage 6)** and within 4 months of practical completion of each phase of residential development, updated **accurate and verified estimates of the 'be seen' energy performance indicators for each reportable home of the development, as well as supporting evidence, as per the methodology outlined in Chapter 4 'As-built stage' of the GLA 'Be seen' energy monitoring guidance, shall be uploaded to the GLA's monitoring portal and submitted to the local planning authority for information.** Confirmation 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** should also be provided.
- C. Upon the completion of the first year of occupation for each phase, following the end of the defects liability period (DLP) and for the following four years, accurate and verified annual in use energy performance data as well as supporting evidence for all relevant indicators under each reportable home of the development as per the **methodology outlined in Chapter 5 'In use stage' of the GLA 'Be seen' energy monitoring guidance shall be uploaded to the GLA's monitoring portal and submitted to the local planning authority for information.**
- D. In the event that the in-use evidence submitted under part (C) shows that the as-built performance estimates have not been or are not being met for two consecutive years, the legal Owner shall 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 within 3 months of identifying a shortfall** against the as-built performance estimates. Where measures are identified, which can be reasonably practicable to implement, an action plan comprising such measures shall be prepared and submitted to the local planning authority for written approval within 3 months of identifying a shortfall against the as-built performance estimates.

The measures approved by the local planning authority shall be implemented by the legal Owner based on the agreed action plan timescales, and in any event, no later than 6 months following approval of the action plan.

- 38) No fans, louvres, ducts or other external plant shall be installed on the building(s) hereby permitted without the prior written approval of the local planning authority.
- 39) Before the development is first occupied or brought into use, a Parking Management Plan shall be submitted to and approved in writing by the local planning authority. The plan shall include the following; details of parking allocations for residents of the approved development and how

this will be operated and enforced; details of measures proposed to restrict parking to designated bays only and prohibit parking on the access road; a commitment to convert passive EV bays to active when demand requires; details of the operation of any gates or barriers; and measures to ensure that all prospective residents are informed of the Parking Management Plan and that all future residents will not be assigned a parking space or a right to park within the development other than blue badge holders. The parking areas and access road(s) shall thereafter be managed in compliance with the approved Parking Management Plan, unless the prior written approval of the local planning authority is obtained to secure any variation.

- 40) The commercial uses hereby permitted shall not operate other than between 07:00am and 22:00pm Monday to Saturday and 10:00am - 16:00pm on Sundays and bank/public holidays.
- 41) All proposed trees and planting over 600mm high and within 2.4m of a pedestrian crossing point will feature a clear stem height of at least 2m measured from the ground and be maintained as such over the lifetime of the development.
- 42) Prior to the occupation of the first residential unit, a Communal External Space and Childrens Playspace Operation and Management Plan shall be submitted to and approved in writing by the local planning authority, setting out details of on-going cleaning, maintenance, conduct rules, hours of use, safety and security. The Plan shall thereafter be implemented and maintained in accordance with the approved details.

APPEARANCES

FOR THE APPELLANT:

B Kelway	Lichfields
C Catherall	Lichfields
S Bisby	Lichfields
T Rogan-Lyons	Lichfields
I Robinson	Mountford Pigott
M Mills	Mountford Pigott
C Watts	Aspect Landscape Planning
A Steels	Hadley Consulting Engineers
L Pasifull	LP Energy
D Mois	Ashton Fire
J Mocotta	Harold Benjamin
S Leslie	KP Acoustic
D Dabasia	Jaysam Contractors Ltd
Z Randeree	Jaysam Contractors Ltd

FOR THE LOCAL PLANNING AUTHORITY:

E Nash	Planning
Z Rad	Planning
G Nutt	Planning
M Ergen	Planning
W Omeir	Urban Design
N Mann	Tetra Tech Group (Noise, Air Quality, Lighting & Odour)
M Stimson	Bevan Brittan LLP

INTERESTED PERSONS:

I Moss	Third Party
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DOCUMENTS AT AND POST HEARING

- 1 **Appellant's Supplementary Statement**, 17 January 2024.
- 2 **Appellant's Burlington Lane Appeal Core Documents List, 23** January 2024.
- 3 **Appellant's Plans showing CET and CP**, 24 January 2024.
- 4 **Council's** Planning Balance Statement, 25 January 2024.
- 5 Planning Committee Report, Units 9-10 Victory Business Centre, Fleming Way, TW7 6DB, Redevelopment of Unit 9 and Unit 10 as a part four, part five-storey residential block (Use Class C3) consisting of 33 flats with associated infrastructure and landscaping, Local planning authority (LPA) reference P/2023/1686.
- 6 2022 Planning Committee Report, 115-119 High Street, TW3 1QT, Demolition of existing building and erection of a five storey building with commercial retail space on the ground and basement, and fifteen flats above with associated amenity space, refuse and cycle storage, LPA reference P/2022/0531.

- 7 Internal Daylight and Sunlight Assessment Revision, Prior Approval application, 1 Burlington Lane, Hadley Consulting Engineers, April 2021, submitted 26 January 2024.
- 8 Local planning authority (LPA) CIL Compliance Schedule and HUDU Model Summary Report, 1 Burlington Lane, 1 February 2024.
- 9 Appellant statement **relating to 'Fallback Position', evidence to demonstrate PA implementation**, Air Quality Note, breakdown and comparison of the single aspect homes facing courtyard in appeal scheme and Prior Approval, draft list of conditions, 1 February 2024.
- 10 LPA response to above appellant statement relating to **'Fallback Position'**, air quality, comparison of single aspect homes between appeal scheme and Prior Approval, conditions, 8 February 2024.
- 11 Appellant Response to LPA CIL Compliance Schedule and HUDU Model Summary Report, 1 Burlington Lane, Lichfields, 8 February 2024.
- 12 LPA clarifications on CIL Compliance Schedule, including HUDU, dated 13 February 2024.
- 13 Appellant Final Comments Response, **including Counsel's opinion**, Air Quality Technical Note (AQTN), Single Aspect Units Addendum letter, 15 February 2024.
- 14 Finalised conditions, incorporating LPA comments and consultant AQTN comments, 15 February 2024.
15. S106 agreement dated 29 February 2024.

APPENDIX A.4 1-4 BRIXTON HILL PROPOSED SCHEME DSO REPORT

REPORT

on

**DAYLIGHT & SUNLIGHT WITHIN
THE
PROPOSED DWELLINGS
& SUNLIGHT TO PROPOSED
AMENITY SPACES**

at

1-4 BRIXTON HILL PLACE

LONDON

REF: MG/GI/ROL00679

REV: -

17 February 2022

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APPENDICES

APPENDIX A - PLAN AND 3D VIEWS OF THE COMPUTER MODEL

APPENDIX B - AVERAGE DAYLIGHT FACTOR ('ADF') TABLE

APPENDIX C - ANNUAL PROBABLE SUNLIGHT HOURS ('APSH') TABLE

APPENDIX D - LAYOUT PLANS WITH ADF RESULTS

APPENDIX E - TWO-HOURS SUN CONTOUR PLAN



Figure 1: Oblique aerial photograph of the site looking north

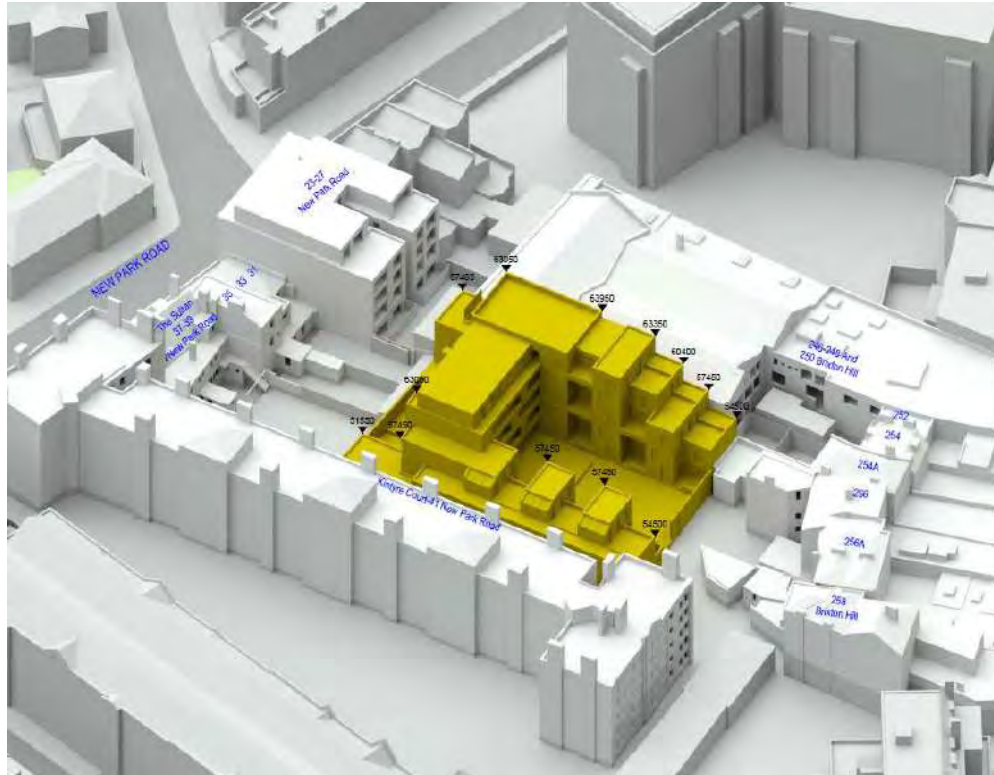


Figure 2: 3D view of computer model looking north

1. INTRODUCTION

- 1.1 Platinum Land is proposing a development at 1-4 Brixton Hill, London SW2 1HJ. The site, which is shown in Figure 1 at page ii, is located to the south-west of Brixton station and is bound by properties along Brixton Hill to the east, Kintyre Court to the south and New Park Road to the west.
- 1.2 The proposed development is designed by Rohacs Architects and comprises the demolition of the existing buildings on site and the erection new building which provides 24 residential units.
- 1.3 Anstey Horne has been commissioned to undertake a formal technical assessment of the daylight and sunlight levels within the proposed accommodation and sunlight to proposed amenity spaces. We have used 3D computer modelling and our specialist computer software to calculate the levels of daylight and sunlight that will be available in the proposed habitable rooms. Our 3D model of the proposed scheme is illustrated in Figure 2 at page ii and in our drawings at Appendix A.
- 1.4 There are no mandatory standards for daylight or sunlight to dwellings, but the following publications offer guidance:
- BRE Report 209, *Site Layout Planning for Daylight and Sunlight: A guide to good practice* (second edition, 2011)
 - BS8206-2: 2008, *Lighting for Buildings – Part 2: Code of practice for daylighting* (2008) - BS EN 17037:2018 has superseded BS8206, but the publication has not been fully implemented within the industry. The BRE guidelines set out the preferred methodologies and have been utilised for this report.
 - CIBSE Lighting Guide 10, *Daylighting - A Guide for Designers: Lighting for the Built Environment* (SLL LG10, 2014)
- 1.5 The above guides give advice on minimum recommended average daylight factors (ADF) in habitable rooms in dwellings. They also make recommendations for sunlight to interiors, based on the percentage of annual probable sunlight hours (APSH).
- 1.6 This report summarises the relevant planning policy, the basic principles of daylighting, the methods used to assess the potential levels that will be achieved in the new accommodation, the information used in compiling our 3D computer model and the results of our technical assessment. Drawings and full tables of results of our assessment are attached in the appendices.

2. PLANNING POLICY AND GUIDANCE

National Planning Policy and Guidance

1.1 The Revised National Planning Policy Framework (February 2019) sets out the Government's planning policies and how these are expected to be applied. It provides a framework within which councils can produce their own local plans that reflect the needs and priorities of their communities.

1.2 Chapter 11 'Making effective use of land' states in paragraph 123(c) that:

"local planning authorities should refuse applications which they consider fail to make efficient use of land, taking into account the policies in this Framework. In this context, when considering applications for housing, authorities should take a flexible approach in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards)."

1.3 The Building Research Establishment, whose aims include achieving a higher quality built environment, publish BRE guidelines 209, *Site Layout Planning for Daylight and Sunlight: A guide to good practice* (second edition, 2011) by PJ Littlefair. This guide gives advice on site layout planning to retain good daylighting and sunlighting in existing surrounding buildings and achieve to it in new buildings. The guide is intended for use by designers, consultants and planning officials and notes that:

"The advice given here is not mandatory and this document should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer."

Regional Planning Policy and Guidance

Mayor's London Plan

2.1 The Mayor of London's '*London Plan – The Spatial Strategy for London Consolidated with Alterations since 2011*' (March 2016) sets out the spatial development strategy for London. It forms part of the development plan for Greater London, along with local plans of the London boroughs. '*Minor Alterations to the London Plan*' were published in 2015 and 2016.

2.2 Policy 3.5 (Quality and design of housing developments) states, "*Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment, taking account of strategic policies in this Plan to protect and enhance London's residential environment and attractiveness as a place to live.*"

- 2.3 Policy 7.6 (Architecture) states that *“buildings and structures should ... provide high quality indoor and outdoor spaces and integrate well with the surrounding streets and open spaces”*.

Mayor’s Housing Supplementary Planning Guidance

- 2.4 The Mayor of London’s ‘*Housing Supplementary Planning Guidance*’ (March 2016) provides guidance on how to implement the housing policies in the London Plan. It replaces the 2012 Housing Supplementary Planning Guidance.

- 2.5 Part 1 of the SPG covers housing supply and sets out the Plan’s approach to optimising housing output. In relation to daylight and sunlight within new housing developments it advises:

“An appropriate degree of flexibility needs to be applied when using BRE guidelines to assess the daylight and sunlight ... within new developments. Guidelines should be applied sensitively to higher density development, especially in opportunity areas, town centres, large sites and accessible locations, where BRE advice suggests considering the use of alternative targets. This should take into account local circumstances; the need to optimise housing capacity; and scope for the character and form of an area to change over time.”

“The daylight targets within a proposed scheme should be assessed drawing on broadly comparable residential typologies within the area and of a similar nature across London. Decision makers should recognise that fully optimising housing potential on large sites may necessitate standards which depart from those presently experienced but which still achieve satisfactory levels of residential amenity.”

- 2.6 Part 2 of the SPG covers quality and design of housing developments. It contains standards that set out the minimum level of quality and design that new homes should meet. The standards and corresponding guidance that relate to daylight and sunlight in new housing are as follows:

Communal and public open space

“Standard 4 - Where communal open space is provided, development proposals should demonstrate that the space ... is designed to take advantage of direct sunlight.”

Home as a place of retreat

“... Natural light is also vital to a sense of wellbeing in the home, and this may be restricted in densely developed parts of the city. The Mayor seeks to encourage the kind of housing that provides comfortable and enjoyable places of retreat and privacy. Factors to be considered include privacy, the importance of dual aspect development, noise mitigation, floor to ceiling heights, daylight and sunlight.”

Dual aspect

“Standard 29 - Developments should minimise the number of single aspect dwellings. Single aspect dwellings that are north facing, or exposed to noise levels above which significant adverse effects on health and quality of life occur, or which contain three or more bedrooms should be avoided.”

“Dual aspect dwellings with opening windows on at least two sides have many inherent benefits. These include better daylight, a greater chance of direct sunlight for longer periods, natural cross ventilation and a greater capacity to address overheating, mitigating pollution, offering a choice of views, access to a quiet side of the building, greater flexibility in the use of rooms, and more potential for future adaptability by altering the use of rooms. Where possible the provision of dual aspect dwellings should be maximised in a development proposal.”

“The design of single aspect flats will need to demonstrate that all habitable rooms and the kitchen are provided with adequate ventilation, privacy and daylight and the orientation enhances amenity, including views. North facing single aspect dwellings should be avoided wherever possible. However, in applying this standard consideration should also be given to other planning and design objectives for a site, for example the aim to maximise active frontages and minimise inactive frontages.”

“Good single aspect one and two bedroom homes are possible where limited numbers of rooms are required, the frontage is generous, the plan is shallow, the orientation and or outlook is favourable, and care is taken to mitigate the potential for overheating without the need for mechanical cooling. Single aspect dwellings may also be appropriate when being used to wrap podium level car parks or large retail units with active frontages.”

“In single aspect dwellings with more than two bedrooms it is difficult to achieve adequate natural ventilation and daylight to all rooms in an efficient plan layout which avoids long internal corridors. Single aspect dwellings containing three or more bedrooms should therefore be avoided. The design of single aspect ground floor dwellings will require particular consideration to maintain privacy and adequate levels of daylight.”

Daylight and sunlight

“Standard 32 - All homes should provide for direct sunlight to enter at least one habitable room for part of the day. Living areas and kitchen dining spaces should preferably receive direct sunlight.”

“Daylight enhances residents’ enjoyment of an interior and reduces the energy needed to provide light for everyday activities, while controlled sunlight can help to meet part of the winter heating requirement. Sunlight is particularly desirable in living areas and kitchen dining spaces. The risk of overheating should be taken into account when designing for sunlight alongside the need to ensure appropriate levels of privacy. In addition to the above standards, BRE good practice guidelines and methodology can be used to assess the levels of daylight and sunlight achieved within new developments, taking into account guidance below and in Section 1.3.”

“Where direct sunlight cannot be achieved in line with Standard 32, developers should demonstrate how the daylight standards proposed within a scheme and individual units will achieve good amenity for residents. They should also demonstrate how the design has sought to optimise the amount of daylight and amenity available to residents, for example, through the design, colour and landscaping of surrounding buildings and spaces within a development.”

“BRE guidelines on assessing daylight and sunlight should be applied sensitively to higher density development in London, particularly in central and urban settings, recognising the London Plan’s strategic approach to optimise housing output (Policy 3.4) and the need to accommodate additional housing supply in locations with good accessibility suitable for higher density development (Policy 3.3). Quantitative standards on daylight and sunlight should not be applied rigidly, without carefully considering the location and context and standards experienced in broadly comparable housing typologies in London.”

Local Planning Policy and Guidance

2.7 The development site is located within the London Borough of Lambeth.

Lambeth Local Plan 2021

2.8 The Lambeth Local plan was adopted in September 2021. Policy Q2 'Amenity' states the following:

"Development will be supported if: ... iv. it would not have an unacceptable impact on levels of daylight and sunlight on the host building or adjoining property including their gardens or outdoor spaces..."

2.9 Paragraph 10.5 goes on to state the following:

"The council will use established industry standards when assessing schemes, including 'Site Layout Planning for Daylight and Sunlight' (BRE Trust, 2011) having regard to context and other material considerations ..."

3. METHOD OF ASSESSMENT AND NUMERICAL GUIDELINES

Daylight within new development

- 3.1 Section 2.1 of the BRE guide makes recommendations concerning daylight in new buildings. At the site layout stage of the design process, when window positions and sizes are unknown, the potential for daylight may be checked at a series of reference points on each main face of the building. At each of these reference points the amount of available skylight falling on the vertical wall can be quantified as the vertical sky component (VSC).
- 3.2 Where window positions and sizes are known, it is more informative to calculate the interior daylighting inside the building. The guidelines recommend calculating the average daylight factor (ADF), which is the mean daylight factor on the horizontal working plane inside the room and is a measure of the overall amount of daylight in a space.
- 3.3 BS8206 and BRE Report 209 recommend the following minimum values of ADF in housing:-
- 1% for bedrooms
 - 1.5% for living rooms
 - 2% for kitchens
- 3.4 BS8206-2: 2008 notes that *“Where one room serves more than one purpose, the minimum average daylight factor should be that for the room type with the highest value. For example, in a space which combines a living room and a kitchen the minimum average daylight factor should be 2%”*.
- 3.5 There are a number of ways that the ADF can be calculated. We have followed the method described in Appendix C of the BRE guide, which uses the following equation:

$$ADF = \frac{TMA_w \theta}{A(1 - R^2)}$$

Equation 1 - ADF formula

where,

T is the diffuse visible light transmittance of the glazing;

M is the maintenance factor allowing for the effects of dirt;

A_w is the net glazed area of the window;

θ is the angle of visible sky;

A is the total area of all the room surfaces (ceilings, floors, walls and windows); and

R is the area-weighted average reflectance for the room surfaces.

- 3.6 The angle of visible sky (θ) at each window, shown in Figure 3, can be directly related to the VSC as described in Appendix C of the BRE guide. The values used in our assessment for the other parameters in the ADF formula are explained later in this report.

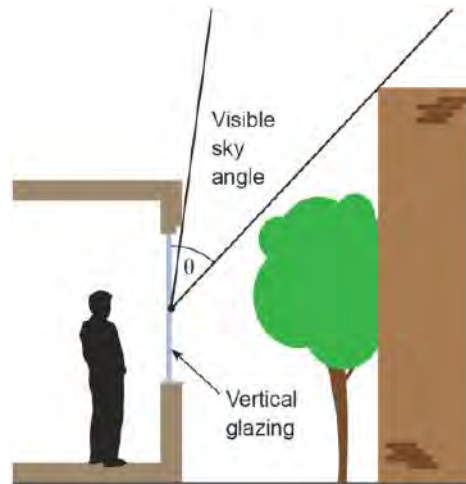


Figure 3 – Angle of visible sky, θ (Source: BRE209, 2011)

Sunlight within new development

- 3.7 Section 3.1 of the BRE guide makes recommendations concerning sunlight in new buildings. It advises that *“In housing, the main requirement for sunlight is in living rooms, where it is valued at any time of day but especially in the afternoon. Sunlight is also required in conservatories. It is viewed as less important in bedrooms and in kitchens, where people prefer it in the mornings rather than the afternoon.”*
- 3.8 The BRE guidance advises that site layout can be used to affect the duration of sunlight in buildings. It notes that *“A dwelling with no main window wall within 90° of due south is likely to be perceived as insufficiently sunlit. This is usually an issue only for flats. Sensitive layout design of flats will attempt to ensure that each individual dwelling has at least one main living room which can receive a reasonable amount of sunlight.”*
- 3.9 The guide notes that *“The aim should be to minimise the number of dwellings whose living rooms face solely north, northeast or northwest, unless there is some corresponding factor such as an appealing view to the north.”* It also acknowledges that *“for larger developments of flats, especially those with constraints, it may not be possible to have every living room facing within 90° of due south”.*
- 3.10 Access to sunlight can be quantified: *“BS8206 recommends that interiors where the occupants expect sunlight should receive at least one quarter (25%) of annual probable*

sunlight hours (APSH), including in the winter months between 21 September and 21 March at least 5% of APSH”.

- 3.11 ‘Probable sunlight hours’ means “the total amount of hours in the year that the sun is expected to shine on unobstructed ground, allowing for average levels of cloudiness for the location in question”. The calculation uses a sunlight probability model that is based on sunlight statistics. The sunlight probability diagram is shown in Figure A.3 of BS8206-2:2008. There are 100 dots on the diagram, with each dot representing 1% of probable sunlight hours. The density of dots on the diagram is proportional to the probability of the sun shining from a particular area of sky.

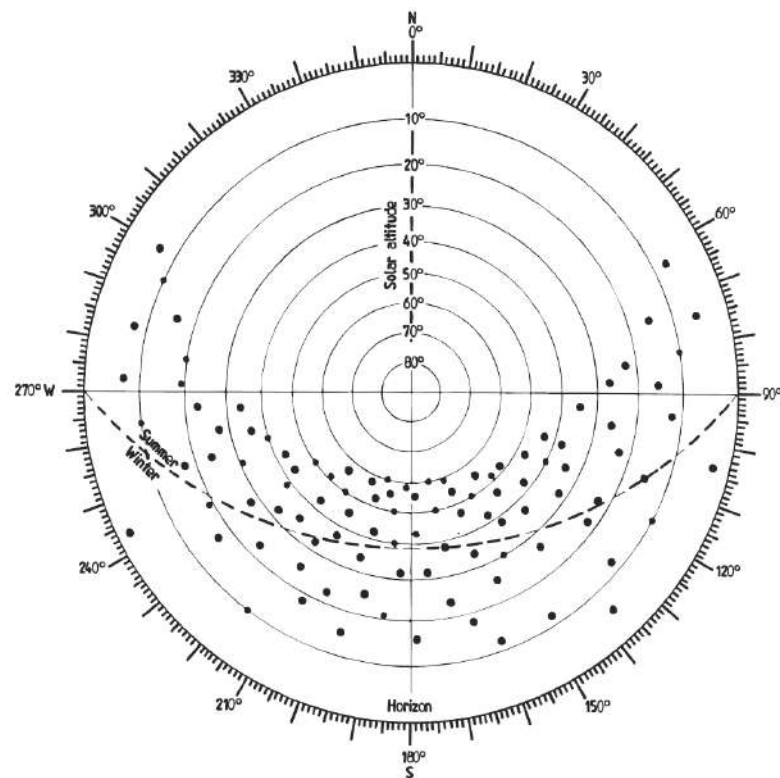


Figure 4 - Sunlight probability diagram (Source: BS8206-2:2008)

- 3.12 Where rooms are lit by more than one window it is sensible to consider the aggregate amount of sunlight reaching the room, though care should be taken to avoid double-counting. The BRE guide advises as follows: “If a room has multiple windows on the same wall or adjacent walls, the highest value APSH should be taken. If a room has two windows on opposite walls, the APSH due to each can be added together.” Our computer software accurately calculates the room-based aggregate APSH, which is a better indicator than individual results for each window.
- 3.13 Whilst the BRE guidelines may, in theory, be applied anywhere, APSH values of 25% annually and 5% in the winter months are often not possible in modern, dense, city-centre

sites where it is necessary to fully optimise housing potential. Furthermore, whilst the criteria can be applied to rooms of all orientations, the guide notes that *“if a room faces significantly north of due east or west it is unlikely to be met”*.

- 3.14 BS8206 notes that *“The degree of satisfaction is related to the expectation of sunlight. If a room is necessarily north facing or if the building is in a densely-built urban area, the absence of sunlight is more acceptable than when its exclusion seems arbitrary. It is the duration of sunlight in an interior, rather than its intensity or the size of the sunny patch, which correlates best with the occupants’ satisfaction.”*
- 3.15 Whilst BS8206 is intended to give good access to sunlight in a range of situations, the BRE guide notes that in some circumstances *“the designer or planning authority may wish to choose a different target value for hours of sunlight.”*
- 3.16 In the summary the BRE guide states that a dwelling will appear reasonably sunlit provided that at least one main window wall faces within 90° of due south and the centre of at least one window to a main living room can receive 25% APSH, including at least 5% APSH in the winter months between 21 September and 21 March. Where groups of dwellings are planned, *“site layout should aim to maximise the number of dwellings with a main living room that meets the above recommendations”*.

Sunlight to proposed amenity spaces within new development

3.17 Section 3.3 of the BRE guide makes recommendations concerning sunlight to open spaces between buildings. It notes that sunlight into these open spaces *“is valuable for a number of reasons, to:*

- *provide attractive sunlit views (all year)*
- *make outdoor activities like sitting out and children’s play more pleasant (mainly warmer months)*
- *encourage plant growth (mainly spring and summer)*
- *dry out the ground, reducing moss and slime (mainly in colder months).*
- *melt frost, ice and snow (in winter)*
- *dry clothes (all year).”*

3.18 The BRE guide recognises that different types of amenity space can have different sunlighting requirements and that it is difficult to suggest a hard and fast rule. The equinox (21 March) can be chosen as a date for assessment. The guide recommends that *“at least half of the amenity areas ... should receive at least two hours of sunlight on 21 March. It is instructive to draw the ‘two hours sun contour’, which marks this area on plan, because the use of specific parts of a site can be planned with sunlight in mind”.*

Computer simulation

3.19 The appendices to the BRE guide describe various manual methods for calculating VSC and APSH and for plotting the no-sky line on the working plane. However, where the obstructions on the skyline are complex these methods can be difficult to apply and the results can be crude. We therefore prefer to use computer simulation and our specialist software, which is based on the more accurate Waldram method described in Appendix B of the BRE guide.

3.20 Our software calculates the VSC at each window, converts this into an equivalent angle of visible sky (θ) and uses this to calculate ADF in each room. Our software can also calculate the aggregate APSH across all windows in a room, as referred to above, without double-counting, so that the room-based aggregate APSH can be established.

3.21 The information upon which our computer model was based is explained in the next section of this report.

4. APPLICATION OF THE BRE GUIDE

- 4.1 In its introduction BRE Report 209 states its *“main aim is ... to help ensure good conditions in the local environment considered broadly, with enough sunlight and daylight on or between the buildings for good interior and exterior conditions”*.
- 4.2 The guide notes that it *“is intended for building designers and their clients, consultants and planning officials. The advice given here is not mandatory and the guide should not be seen as an instrument of planning policy; its aim is to help rather than constrain the designer. Although it gives numerical guidelines, these should be interpreted flexibly since natural lighting is only one of many factors in site layout design.”*
- 4.3 Clearly, the BRE guide is an advisory document, not a rigid set of rules. Care must therefore be taken when applying its recommendations.
- 4.4 In theory the BRE report’s numerical guidelines may be applied to any setting, whether that is a city centre, suburban area or rural village. However, it notes, *“In special circumstances the developer or planning authority may wish to use different target values. For example, in a historic city centre, or in an area with modern high rise buildings, a higher degree of obstruction may be unavoidable if new developments are to match the height and proportions of existing buildings.”*
- 4.5 Furthermore, as noted at paragraph 2.5 above, the Mayor of London’s *Housing Supplementary Planning Guidance* emphasises that fully optimising housing potential on large sites may necessitate departure from conventional guidelines and the adoption of alternative target values.
- 4.6 Clearly, rigid application of the BRE Report’s standard numerical guidelines may be inappropriate in a built-up urban environment where higher density affordable development may be desirable and where there simply cannot be the same expectation of light as in a suburban or rural context.

5. INFORMATION USED IN THE TECHNICAL STUDY

5.1 We undertook our technical study using a 3D computer model of the proposed scheme and its surrounding buildings, which we built from the following information:

- Proposed scheme:
 - Rohacs Architect's 3D model of the proposed scheme received 21 January 2022 and internal layouts received 10 February 2022
- Surrounding buildings:
 - Anstey Horne's point cloud data of the site collected 22 June 2021
 - Aerial photography from Google
 - Site visit, photographs and measurements

5.2 The computer model is illustrated on the drawings at Appendix A.

5.3 In calculating the daylight (ADF) levels the following values were applied in the BRE / BS formula:

- T (diffuse glass transmission): 0.68 for clear double glazing with a low emissivity coating;
- M (maintenance factor for dirt on glass): 0.92 (i.e. 8% loss) for vertical glazing;
- A_w (window aperture area): measured from 3D computer model multiplied by 0.8 for the frame correction factor;
- A (total surface area of room): measured from the 3D computer model; and
- R (area-weighted surface reflectance of room): calculated for each room based on the following surface finishes and reflectances:
 - Ceilings: white 0.85
 - Walls: pale cream 0.81
 - Floors: light wood flooring 0.4

6. RESULTS OF TECHNICAL STUDY

- 6.1 We have tested all habitable rooms in the proposed development.
- 6.2 In all we tested 81 rooms, of which 19 are living room/kitchen/diners (LKDs), 5 are living/diners (LDs), 5 are kitchens and 52 are bedrooms. Where windows are set back beneath balconies serving the floor above, we have included the obstructing effect of the balcony within our model.
- 6.3 The rooms tested are shown outlined on our drawing nos. ROL00679_R05_V02_401-01 to 401-05 at Appendix D. The drawings give the use of each room and the room and window references used in our detailed tables of results.

Daylight within new development

- 6.4 The average daylight factor (ADF) results for the proposed habitable rooms tested are shown in the table at Appendix B (along with the relevant target for the room use concerned) and on the room layout drawings at Appendix D.
- 6.5 The results demonstrate that 65 (80%) of the 81 rooms assessed achieve the guideline values. The rooms which fall short of the guideline values include 3 LKDs, 4 kitchens and 9 bedrooms.
- 6.6 Of the 3 LKD's which fall short of the guideline values, 2 achieve ADF values of between 1.5% and 2.0% and therefore exceed the guideline ADF values for a living room. It is worth noting that all three of these LKDs have direct access to balconies/private amenity space and are served by windows cited beneath balconies. The level of adherence to the guidelines would otherwise be better, but there is necessarily a trade-off between daylight and valuable private amenity space for the occupants.
- 6.7 Considering the 4 kitchens which fall short of the guideline values, it is again worth noting that all of these kitchens are located under a projecting walkway and that 3 of these rooms do exceed the 1.5% guideline for a living room. Furthermore, all of these kitchens are located in units served by living rooms which exceed the guideline values.
- 6.8 Of the 9 bedrooms which fall short of the guideline values, two achieve ADF values of 0.92% and 0.94% and therefore fall only marginally below the guideline values for a bedroom. As with the LKD's discussed above, all of the remaining bedrooms have direct access to balconies/private amenity space and/or are served by windows cited beneath balconies.
- 6.9 It is also worth noting that six of the bedrooms which fall short of the guideline values are secondary bedrooms contained within 2 duplex apartments. These apartments contain

well daylit living spaces on either the ground or second floor and well daylit master bedrooms on either the first or third floor. Therefore, we consider the overall daylight availability to these duplexes to be acceptable.

Sunlight within new development

- 6.10 The focus of the BRE sunlight guidelines is on main living rooms, rather than bedrooms and kitchens, which the guide views as less important. The guide recommends that *“Sensitive layout design of flats will attempt to ensure that each individual dwelling has at least one main living room which can receive a reasonable amount of sunlight ... Where possible, living rooms should face the southern or western parts of the sky and kitchens towards the north or east.”*
- 6.11 The guidelines acknowledge that *“if a room faces significantly north of due east or west [the sunlight criterion] is unlikely to be met”*. Despite this we have tested all the rooms in our model regardless of orientation and set out the results below.
- 6.12 We tested a total of 81 rooms, including 19 LKDs, 5 LDs, 5 kitchens and 52 bedrooms. Although we have tested various types of habitable room, the guidelines focus on main living rooms and conservatories and the results should be considered in this context.
- 6.13 The annual probable sunlight hours (APSH) results for the rooms tested are given in the table at Appendix C. As explained, these are room-based aggregate APSH figures taking account of sunlight available to all windows, where they are served by more than one.
- 6.14 The results demonstrate that 25 (31%) of the rooms assessed achieve the guideline values on an annual basis and 32 (40%) achieve the guideline values on a winter basis. If we consider the results for the south facing rooms only, where the expectation of sunlight will be greater, 24 (46%) of the 52 rooms assessed are shown to meet the guideline values on an annual basis and 30 (58%) during the winter months.
- 6.15 When considering these results, it should be borne in mind that sunlight is primarily influenced by orientation and the number of windows that can be orientated in a southerly direction is limited. Furthermore, as explained above with regards to daylight, sunlight is restricted by balconies, but these balconies provide valuable amenity space in accordance with local planning policies.

Sunlight to proposed amenity spaces

6.16 The results for sunlight to the amenity spaces within the proposed development are shown on our drawings at Appendix E. Areas that will be able to receive at least two hours of sunlight on 21 March are shown cross-hatched yellow and areas that will receive sunlight for a shorter duration are cross-hatched grey. The proportion of each space achieving the two-hour guideline on 21 March is expressed as a percentage on the drawing and in the second column of Table 1 below. The BRE target is 50% of a space.

Table 1 - Percentage of each amenity area receiving at least two hours of sunlight on 21 March

Amenity Area	Percentage of area in sunlight on 21 March for ≥ 2 hrs
A1	26.40%
A2	0.00%
A3	70.03%
A4	99.93%

6.17 The two-hour sun contour results show that, as anticipated, the amenity spaces to the north-west of the scheme fall short of the guideline values on 21 March. However, the amenity spaces which sit within the internal courtyard are shown to exceed the guideline values. It is worth noting that all future occupants will have access to these well-lit spaces in addition to the private amenity areas provided in the form of balconies.

7. SUMMARY AND CONCLUSION

- 7.1 There are no mandatory standards for daylight or sunlight provision within dwellings. Lambeth's planning policy seeks to provide good living conditions for residents of new housing developments, including the provision of adequate daylight and sunlight within dwellings and sunlight to amenity spaces.
- 7.2 BRE Report 209, *Site Layout Planning for Daylight and Sunlight: A guide to good practice* provides useful guidance on the subject.
- 7.3 We assessed daylight and sunlight to all habitable rooms from ground to fourth floor levels in the proposed development. The tests were undertaken in accordance with the BRE methodology. We also assessed sunlight to the main amenity spaces within the scheme.
- 7.4 The daylight results demonstrate that 80% of the rooms assessed meet the guideline values provided by the BRE. When looking at the rooms which are considered as the main living spaces in each unit, 88% of the rooms are shown to meet or exceed the guidelines. The majority of the rooms which fall short of the guideline values are bedrooms which the BRE Guidelines state need less daylight than main living spaces. In terms of sunlight, circa half of the rooms which face within 90 degrees of due south are shown to achieve the guideline values on an annual basis and the majority are shown to achieve the guideline values on a winter basis. Where rooms fall short of the guideline values, they have been designed with direct access to private amenity spaces in the form of balconies which provide valuable private amenity space for the occupants.
- 7.5 The sunlight to amenity assessment demonstrates that whilst the amenity spaces to the north of the site fall short of the guideline values, the main amenity spaces sited in the courtyard will exceed the guideline values on the 21 March and provide areas with good sunlight availability which are accessible to all future occupants.
- 7.6 In conclusion, the layout of the proposed development broadly follows the BRE guidelines and will provide very good daylight and reasonable sunlight conditions within the proposed accommodation. Importantly, many of the main living spaces will achieve excellent daylight levels. In our opinion Lambeth's planning policy on daylight and sunlight to new dwellings will be satisfied.

Anstey Horne

.....
ANSTEY HORNE

17 February 2022

APPENDIX A

-

PLAN AND 3D VIEWS OF THE COMPUTER MODEL

DRAWING NOS. ROL00679_R05_V01_004 TO 006

LEGEND:

■ Existing	■ Consented
■ Proposed	■ Cutback
12120 AOD Height (mm)	

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS
 Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 21/01/2022



REV	DESCRIPTION	DATE

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CLIENT: PLATINUM LAND

PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ

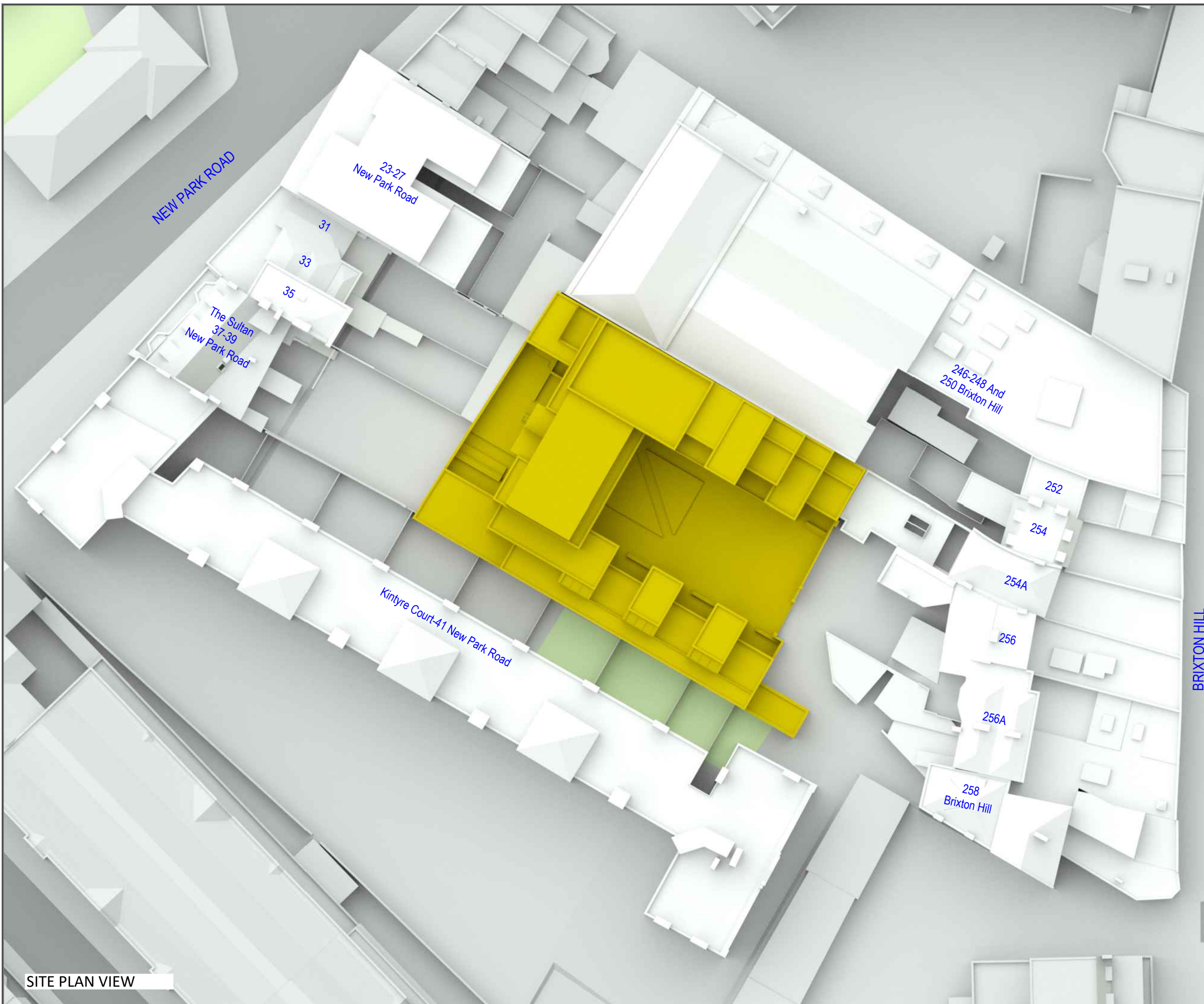
SCHEME REF: SCHEME RECEIVED: 21/01/2022

DRAWING TITLE: SITE PLAN VIEW PROPOSED CONDITION

MODELLED BY/ DRAWN BY: MZ DATE: 01/02/2022 SCALE: N.T.S. **A3**

PROJECT No: ROL00679_R05_V01_004
 RELEASE No: VERSION No: DRAWING No:

Site Plan



SITE PLAN VIEW

LEGEND:

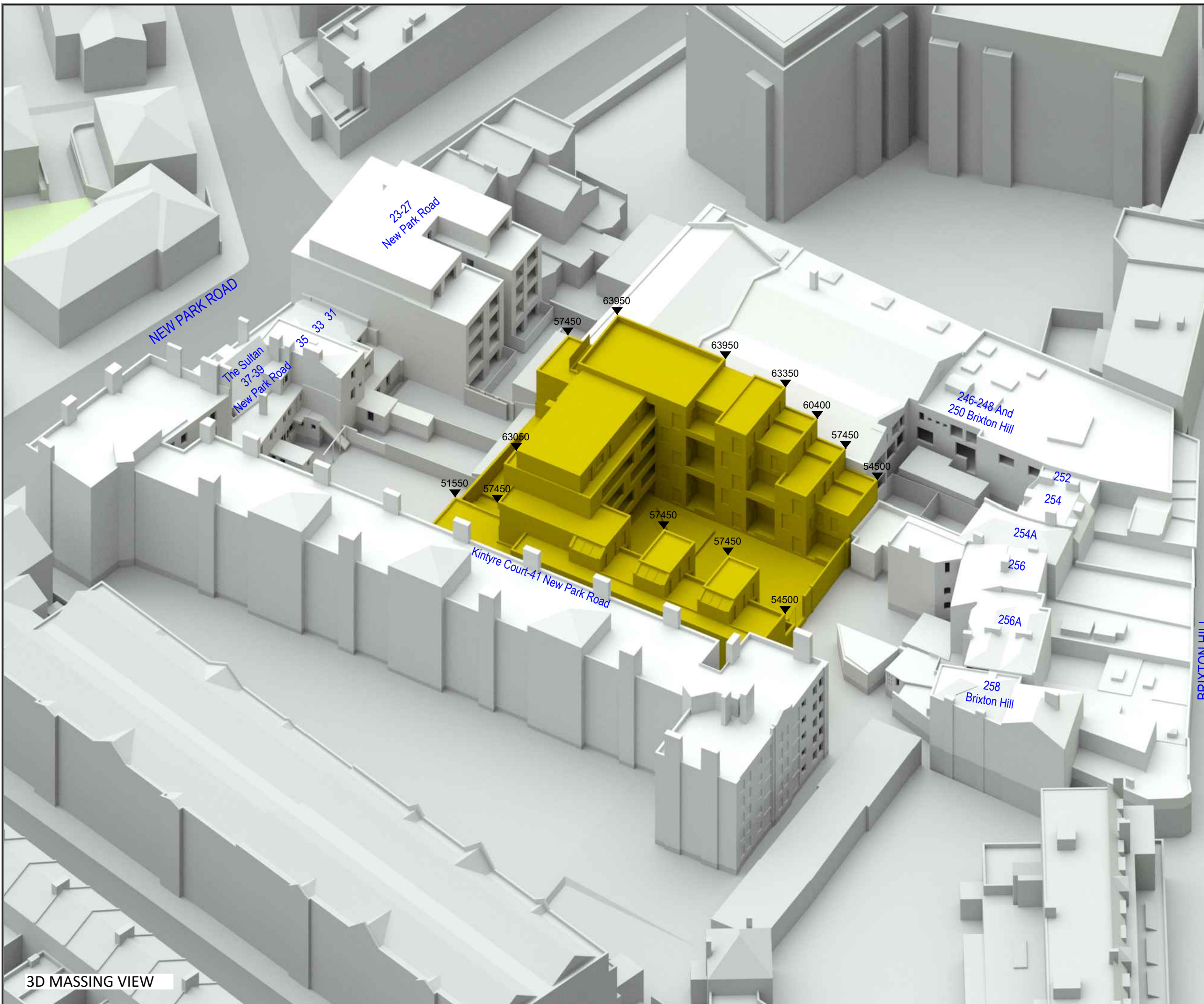
- █ Existing
 - █ Proposed
 - █ Consented
 - █ Cutback
- 12120**
 AOD Height (mm)

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS
 Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 21/01/2022



3D MASSING VIEW

REV	DESCRIPTION	DATE

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CLIENT: PLATINUM LAND

PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ

SCHEME REF: SCHEME RECEIVED: 21/01/2022

DRAWING TITLE: 3D MASSING MODEL VIEW PROPOSED CONDITION

MODELLED BY/ DRAWN BY: MZ DATE: 01/02/2022 SCALE: N.T.S. A3

PROJECT No: ROL00679_R05_V01_005 RELEASE No: VERSION No: DRAWING No:

3D Massing Model

LEGEND:

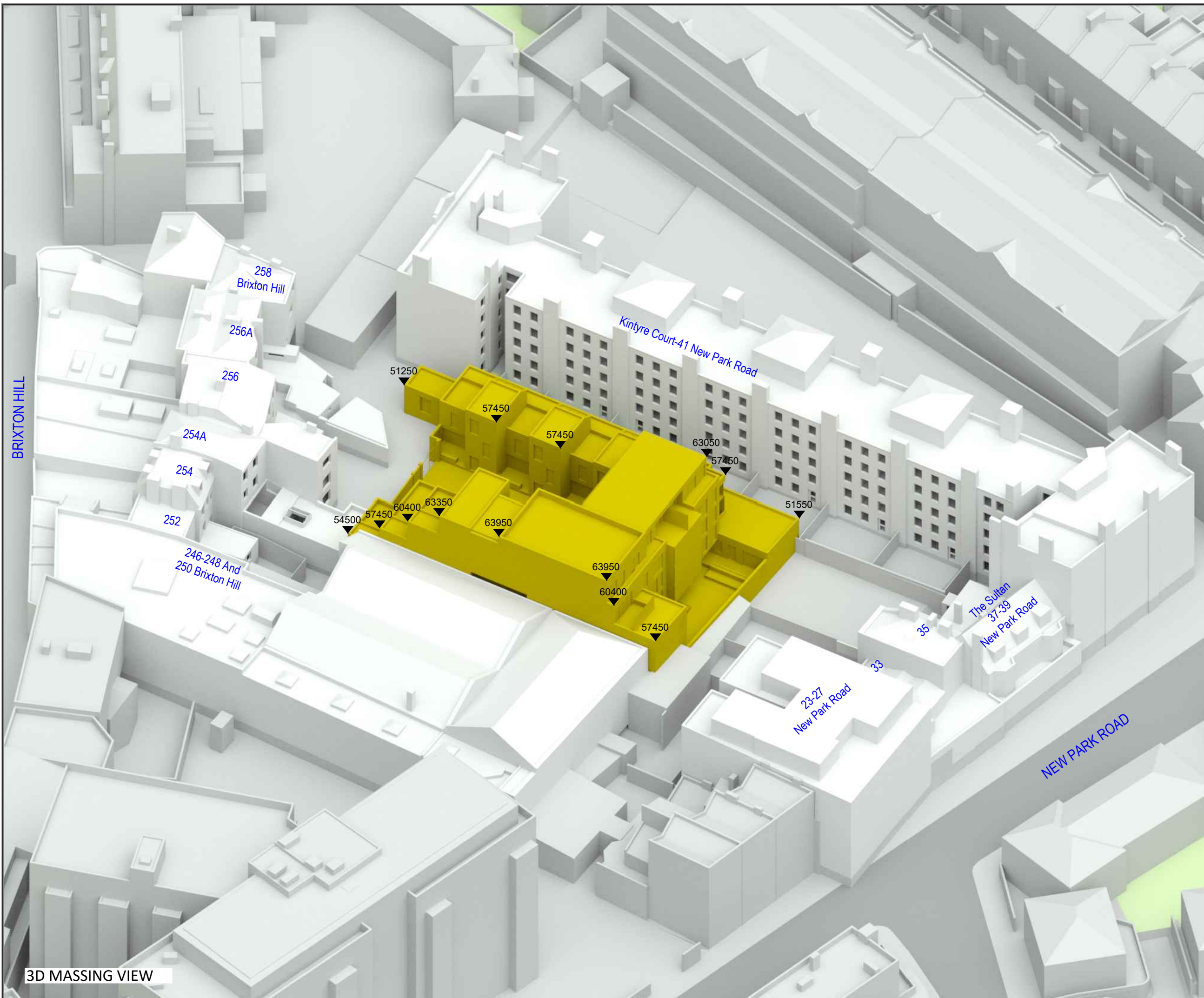
- Existing
- Proposed
- Consented
- Cutback
- 12120 AOD Height (mm)

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS
 Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 21/01/2022



BRIXTON HILL

258
Brixton Hill

256A

256

254A

254

252

246-248 And
250 Brixton Hill

Kintyre Court-41 New Park Road

The Sultan
37-39
New Park Road

23-27
New Park Road

NEW PARK ROAD

51250

57450

57450

63050

57450

51550

54500

57450

60400

63350

63950

63950

60400

57450

3D MASSING VIEW

REV	DESCRIPTION	DATE

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CLIENT: PLATINUM LAND

PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ

SCHEME REF: SCHEME RECEIVED: 21/01/2022

DRAWING TITLE: 3D MASSING MODEL VIEW PROPOSED CONDITION

MODELLED BY/ DRAWN BY MZ	DATE: 01/02/2022	SCALE: N.T.S.	A3
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PROJECT No:	RELEASE No:	VERSION No:	DRAWING No:
ROL00679_R05_V01_			006

3D Massing Model

APPENDIX B

-

AVERAGE DAYLIGHT FACTOR ('ADF') TABLE

Parameters Used for ADF :

Glazing transmittance = 0.68

Maintenance Factor = 0.92

Glazing bar correction = 0.8

Wall Reflectance = 0.81

Floor Reflectance = 0.4

Ceiling Reflectance = 0.85

Property / room ref.	Property type	Flat no.	Room usage	Window ref.	ADF% Contrib.	Total
Proposed Building						
Gnd Floor						
R1	RESIDENTIAL		LKD	W1	2.32	
R1	RESIDENTIAL		LKD	W2	0.43	
R1	RESIDENTIAL		LKD	W3	0.71	3.46
R2	RESIDENTIAL		LKD	W4	1.87	
R2	RESIDENTIAL		LKD	W5	0.34	
R2	RESIDENTIAL		LKD	W6	0.59	2.80
R3	RESIDENTIAL		LKD	W7	1.51	
R3	RESIDENTIAL		LKD	W8	0.32	
R3	RESIDENTIAL		LKD	W9	0.45	2.29
R4	RESIDENTIAL		KITCHEN	W10	1.02	1.02
R5	RESIDENTIAL		LKD	W11	0.58	
R5	RESIDENTIAL		LKD	W12	0.29	
R5	RESIDENTIAL		LKD	W13	1.44	2.31
R6	RESIDENTIAL		LKD	W14	0.76	
R6	RESIDENTIAL		LKD	W15	0.29	
R6	RESIDENTIAL		LKD	W16	1.58	2.64
R7	RESIDENTIAL		LKD	W17	0.82	
R7	RESIDENTIAL		LKD	W18	0.43	
R7	RESIDENTIAL		LKD	W19	2.08	3.32
R8	RESIDENTIAL		BEDROOM	W20	1.08	1.08
R9	RESIDENTIAL		BEDROOM	W21	1.11	1.11
R10	RESIDENTIAL		LKD	W22	0.69	
R10	RESIDENTIAL		LKD	W23	0.59	1.28
R11	RESIDENTIAL		LD	W24	2.66	
R11	RESIDENTIAL		LD	W25	0.13	2.80
R12	RESIDENTIAL		BEDROOM	W26	0.85	0.85
R13	RESIDENTIAL		BEDROOM	W27	1.26	1.26
R14	RESIDENTIAL		LKD	W28	2.19	2.19
1st Floor						
R1	RESIDENTIAL		BEDROOM	W1	2.37	2.37
R2	RESIDENTIAL		BEDROOM	W2	2.35	2.35
R3	RESIDENTIAL		BEDROOM	W3	0.92	
R3	RESIDENTIAL		BEDROOM	W4	1.44	2.36
R4	RESIDENTIAL		BEDROOM	W5	1.79	1.79
R5	RESIDENTIAL		BEDROOM	W6	2.05	2.05
R6	RESIDENTIAL		BEDROOM	W7	0.75	
R6	RESIDENTIAL		BEDROOM	W8	1.21	1.97
R7	RESIDENTIAL		BEDROOM	W9	1.49	1.49
R8	RESIDENTIAL		BEDROOM	W10	1.79	1.79
R9	RESIDENTIAL		BEDROOM	W11	0.74	
R9	RESIDENTIAL		BEDROOM	W12	0.87	1.61
R10	RESIDENTIAL		BEDROOM	W13	1.59	1.59
R11	RESIDENTIAL		KITCHEN	W14	1.60	1.60
R12	RESIDENTIAL		BEDROOM	W15	0.97	
R12	RESIDENTIAL		BEDROOM	W16	0.35	1.32

TABLE P7
 AVERAGE DAYLIGHT FACTOR (ADF)
 WITHIN PROPOSED ACCOMODATION

Property / room ref.	Property type	Flat no.	Room usage	Window ref.	ADF% Contrib.	Total
R13	RESIDENTIAL		BEDROOM	W17	0.54	0.54
R14	RESIDENTIAL		BEDROOM	W18	0.46	0.46
R15	RESIDENTIAL		BEDROOM	W19	1.32	
R15	RESIDENTIAL		BEDROOM	W20	0.35	1.67
R16	RESIDENTIAL		BEDROOM	W21	0.59	0.59
R17	RESIDENTIAL		BEDROOM	W22	0.51	0.51
R18	RESIDENTIAL		BEDROOM	W23	1.41	
R18	RESIDENTIAL		BEDROOM	W24	0.81	2.22
R19	RESIDENTIAL		BEDROOM	W25	1.99	1.99
R20	RESIDENTIAL		BEDROOM	W26	2.18	2.18
R21	RESIDENTIAL		BEDROOM	W27	1.43	1.43
R22	RESIDENTIAL		BEDROOM	W28	1.45	1.45
R23	RESIDENTIAL		LKD	W29	0.81	
R23	RESIDENTIAL		LKD	W30	0.78	1.59
R24	RESIDENTIAL		LD	W31	2.86	
R24	RESIDENTIAL		LD	W32	0.40	3.26
R25	RESIDENTIAL		BEDROOM	W33	1.11	1.11
R26	RESIDENTIAL		BEDROOM	W34	1.16	1.16
R27	RESIDENTIAL		LKD	W35	0.24	
R27	RESIDENTIAL		LKD	W36	0.65	
R27	RESIDENTIAL		LKD	W37	1.01	
R27	RESIDENTIAL		LKD	W38	1.00	2.90
R28	RESIDENTIAL		BEDROOM	W39	0.80	0.80
R29	RESIDENTIAL		LKD	W40	0.51	
R29	RESIDENTIAL		LKD	W41	1.61	2.12
2nd Floor						
R1	RESIDENTIAL		BEDROOM	W1	1.22	
R1	RESIDENTIAL		BEDROOM	W2	1.92	
R1	RESIDENTIAL		BEDROOM	W3	2.44	5.58
R2	RESIDENTIAL		BEDROOM	W4	1.06	
R2	RESIDENTIAL		BEDROOM	W5	1.71	
R2	RESIDENTIAL		BEDROOM	W6	2.15	4.91
R3	RESIDENTIAL		BEDROOM	W7	1.06	
R3	RESIDENTIAL		BEDROOM	W8	1.68	
R3	RESIDENTIAL		BEDROOM	W9	1.70	4.44
R5	RESIDENTIAL		KITCHEN	W11	1.85	1.85
R6	RESIDENTIAL		LKD	W12	0.99	
R6	RESIDENTIAL		LKD	W13	0.41	
R6	RESIDENTIAL		LKD	W14	2.22	3.62
R7	RESIDENTIAL		LKD	W15	1.09	
R7	RESIDENTIAL		LKD	W16	0.53	
R7	RESIDENTIAL		LKD	W17	2.49	4.11
R8	RESIDENTIAL		BEDROOM	W18	2.32	
R8	RESIDENTIAL		BEDROOM	W19	1.84	
R8	RESIDENTIAL		BEDROOM	W20	1.84	6.00
R9	RESIDENTIAL		BEDROOM	W21	1.71	1.71
R10	RESIDENTIAL		BEDROOM	W22	1.72	1.72
R11	RESIDENTIAL		LKD	W23	0.88	
R11	RESIDENTIAL		LKD	W24	0.87	1.74
R12	RESIDENTIAL		LD	W25	1.49	
R12	RESIDENTIAL		LD	W26	1.00	
R12	RESIDENTIAL		LD	W27	0.47	2.96
R13	RESIDENTIAL		BEDROOM	W28	1.33	1.33
R14	RESIDENTIAL		BEDROOM	W29	1.38	1.38
R15	RESIDENTIAL		LKD	W30	0.33	
R15	RESIDENTIAL		LKD	W31	2.41	
R15	RESIDENTIAL		LKD	W32	1.06	
R15	RESIDENTIAL		LKD	W33	0.25	4.05
R16	RESIDENTIAL		BEDROOM	W34	0.70	0.70

TABLE P7
 AVERAGE DAYLIGHT FACTOR (ADF)
 WITHIN PROPOSED ACCOMODATION

Property / room ref.	Property type	Flat no.	Room usage	Window ref.	ADF% Contrib.	Total
3rd Floor						
R1	RESIDENTIAL		BEDROOM	W1	2.32	2.32
R2	RESIDENTIAL		KITCHEN	W2	1.88	1.88
R3	RESIDENTIAL		BEDROOM	W3	1.45	
R3	RESIDENTIAL		BEDROOM	W4	0.45	1.90
R4	RESIDENTIAL		BEDROOM	W5	0.94	0.94
R5	RESIDENTIAL		BEDROOM	W6	0.92	0.92
R6	RESIDENTIAL		BEDROOM	W7	2.13	
R6	RESIDENTIAL		BEDROOM	W8	1.24	3.38
R7	RESIDENTIAL		BEDROOM	W9	1.72	
R7	RESIDENTIAL		BEDROOM	W10	2.21	3.93
R8	RESIDENTIAL		BEDROOM	W11	2.61	2.61
R9	RESIDENTIAL		LKD	W12	4.47	4.47
R10	RESIDENTIAL		BEDROOM	W13	2.68	2.68
R11	RESIDENTIAL		LD	W14	3.76	
R11	RESIDENTIAL		LD	W15	0.54	4.30
R12	RESIDENTIAL		BEDROOM	W16	1.50	1.50
R13	RESIDENTIAL		BEDROOM	W17	1.53	1.53
R14	RESIDENTIAL		LKD	W18	0.38	
R14	RESIDENTIAL		LKD	W19	2.60	
R14	RESIDENTIAL		LKD	W20	1.14	4.12
4th Floor						
R1	RESIDENTIAL		KITCHEN	W1	5.28	5.28
R2	RESIDENTIAL		BEDROOM	W2	2.61	
R2	RESIDENTIAL		BEDROOM	W3	1.48	4.09
R3	RESIDENTIAL		BEDROOM	W4	5.63	5.63
R4	RESIDENTIAL		LKD	W5	1.27	
R4	RESIDENTIAL		LKD	W6	0.95	
R4	RESIDENTIAL		LKD	W7	2.02	
R4	RESIDENTIAL		LKD	W8	0.90	5.14
R5	RESIDENTIAL		BEDROOM	W9	3.93	3.93
R7	RESIDENTIAL		BEDROOM	W11	5.02	5.02
R8	RESIDENTIAL		LKD	W12	2.03	
R8	RESIDENTIAL		LKD	W13	1.63	
R8	RESIDENTIAL		LKD	W17	0.90	4.56
R9	RESIDENTIAL		BEDROOM	W14	3.43	3.43
R10	RESIDENTIAL		LD	W15	3.74	
R10	RESIDENTIAL		LD	W16	1.65	5.38

APPENDIX C

-

ANNUAL PROBABLE SUNLIGHT HOURS ('APSH') TABLE

TABLE P9
 ANNUAL PROBABLE SUNLIGHT HOURS (APSH)
 WITHIN PROPOSED ACCOMMODATION

PROPERTY						WINDOW		ROOM	
						ANNUAL SUNLIGHT	WINTER SUNLIGHT	ANNUAL SUNLIGHT	WINTER SUNLIGHT
Room ref.	Property type	Flat no.	Window ref.	Room use	Orientation	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)
Proposed Building									
Gnd Floor									
R1	RESIDENTIAL		W1	LKD	Northerly	1	0		
R1	RESIDENTIAL		W2	LKD	Southerly	13	0		
R1	RESIDENTIAL		W3	LKD	Northerly	0	0	13	0
R2	RESIDENTIAL		W4	LKD	Northerly	0	0		
R2	RESIDENTIAL		W5	LKD	Southerly	8	0		
R2	RESIDENTIAL		W6	LKD	Northerly	2	0	8	0
R3	RESIDENTIAL		W7	LKD	Northerly	0	0		
R3	RESIDENTIAL		W8	LKD	Southerly	8	0		
R3	RESIDENTIAL		W9	LKD	Northerly	0	0	8	0
R4	RESIDENTIAL		W10	KITCHEN	Southerly	4	3	4	3
R5	RESIDENTIAL		W11	LKD	Southerly	28	9		
R5	RESIDENTIAL		W12	LKD	Southerly	13	6		
R5	RESIDENTIAL		W13	LKD	Southerly	20	4	38	12
R6	RESIDENTIAL		W14	LKD	Southerly	38	9		
R6	RESIDENTIAL		W15	LKD	Southerly	14	7		
R6	RESIDENTIAL		W16	LKD	Southerly	24	5	44	14
R7	RESIDENTIAL		W17	LKD	Southerly	42	10		
R7	RESIDENTIAL		W18	LKD	Southerly	24	7		
R7	RESIDENTIAL		W19	LKD	Southerly	38	8	59	15
R8	RESIDENTIAL		W20	BEDROOM	Southerly	5	3	5	3
R9	RESIDENTIAL		W21	BEDROOM	Southerly	5	2	5	2
R10	RESIDENTIAL		W22	LKD	Northerly	14	0		
R10	RESIDENTIAL		W23	LKD	Northerly	2	0	15	0
R11	RESIDENTIAL		W24	LD	Northerly	14	0		
R11	RESIDENTIAL		W25	LD	Southerly	0	0	14	0
R12	RESIDENTIAL		W26	BEDROOM	Northerly	2	0	2	0

*NOTES: 'APSH' = annual probable sunlight hours, which means the long term average of the total number of hours during the year in which direct sunlight reaches the unobstructed ground.

PROPERTY						WINDOW		ROOM	
						ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)	ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)
Room ref.	Property type	Flat no.	Window ref.	Room use	Orientation	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)
R13	RESIDENTIAL		W27	BEDROOM	Northerly	0	0	0	0
R14	RESIDENTIAL		W28	LKD	Northerly	0	0	0	0
1st Floor									
R1	RESIDENTIAL		W1	BEDROOM	Northerly	3	0	3	0
R2	RESIDENTIAL		W2	BEDROOM	Northerly	3	0	3	0
R3	RESIDENTIAL		W3	BEDROOM	Southerly	26	1		
R3	RESIDENTIAL		W4	BEDROOM	Northerly	3	0	28	1
R4	RESIDENTIAL		W5	BEDROOM	Northerly	1	0	1	0
R5	RESIDENTIAL		W6	BEDROOM	Northerly	3	0	3	0
R6	RESIDENTIAL		W7	BEDROOM	Southerly	14	0		
R6	RESIDENTIAL		W8	BEDROOM	Northerly	4	0	16	0
R7	RESIDENTIAL		W9	BEDROOM	Northerly	0	0	0	0
R8	RESIDENTIAL		W10	BEDROOM	Northerly	4	0	4	0
R9	RESIDENTIAL		W11	BEDROOM	Southerly	14	0		
R9	RESIDENTIAL		W12	BEDROOM	Northerly	3	0	16	0
R10	RESIDENTIAL		W13	BEDROOM	Southerly	6	2	6	2
R11	RESIDENTIAL		W14	KITCHEN	Southerly	7	6	7	6
R12	RESIDENTIAL		W15	BEDROOM	Southerly	26	10		
R12	RESIDENTIAL		W16	BEDROOM	Southerly	6	5	32	15
R13	RESIDENTIAL		W17	BEDROOM	Southerly	3	3	3	3
R14	RESIDENTIAL		W18	BEDROOM	Southerly	4	4	4	4
R15	RESIDENTIAL		W19	BEDROOM	Southerly	41	13		
R15	RESIDENTIAL		W20	BEDROOM	Southerly	6	5	47	18
R16	RESIDENTIAL		W21	BEDROOM	Southerly	4	4	4	4
R17	RESIDENTIAL		W22	BEDROOM	Southerly	3	3	3	3
R18	RESIDENTIAL		W23	BEDROOM	Southerly	43	11		
R18	RESIDENTIAL		W24	BEDROOM	Southerly	26	6	68	17
R19	RESIDENTIAL		W25	BEDROOM	Southerly	30	12	30	12
R20	RESIDENTIAL		W26	BEDROOM	Southerly	43	13	43	13
R21	RESIDENTIAL		W27	BEDROOM	Southerly	9	5	9	5
R22	RESIDENTIAL		W28	BEDROOM	Southerly	6	3	6	3
R23	RESIDENTIAL		W29	LKD	Northerly	18	0		

*NOTES: 'APSH' = annual probable sunlight hours, which means the long term average of the total number of hours during the year in which direct sunlight reaches the unobstructed ground.

PROPERTY						WINDOW		ROOM	
						ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)	ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)
Room ref.	Property type	Flat no.	Window ref.	Room use	Orientation	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)
R23	RESIDENTIAL		W30	LKD	Northerly	13	0	19	0
R24	RESIDENTIAL		W31	LD	Northerly	16	0		
R24	RESIDENTIAL		W32	LD	Southerly	2	0	16	0
R25	RESIDENTIAL		W33	BEDROOM	Northerly	2	0	2	0
R26	RESIDENTIAL		W34	BEDROOM	Northerly	4	0	4	0
R27	RESIDENTIAL		W35	LKD	Northerly	0	0		
R27	RESIDENTIAL		W36	LKD	Northerly	8	0		
R27	RESIDENTIAL		W37	LKD	Northerly	11	0		
R27	RESIDENTIAL		W38	LKD	Northerly	9	0	11	0
R28	RESIDENTIAL		W39	BEDROOM	Northerly	3	0	3	0
R29	RESIDENTIAL		W40	LKD	Northerly	7	0		
R29	RESIDENTIAL		W41	LKD	Northerly	4	0	7	0
2nd Floor									
R1	RESIDENTIAL		W1	BEDROOM	Southerly	34	6		
R1	RESIDENTIAL		W2	BEDROOM	Southerly	41	8		
R1	RESIDENTIAL		W3	BEDROOM	Northerly	5	0	43	9
R2	RESIDENTIAL		W4	BEDROOM	Southerly	27	2		
R2	RESIDENTIAL		W5	BEDROOM	Southerly	36	4		
R2	RESIDENTIAL		W6	BEDROOM	Northerly	4	0	36	4
R3	RESIDENTIAL		W7	BEDROOM	Southerly	28	3		
R3	RESIDENTIAL		W8	BEDROOM	Southerly	36	4		
R3	RESIDENTIAL		W9	BEDROOM	Northerly	4	0	37	5
R5	RESIDENTIAL		W11	KITCHEN	Southerly	9	8	9	8
R6	RESIDENTIAL		W12	LKD	Southerly	42	17		
R6	RESIDENTIAL		W13	LKD	Southerly	15	8		
R6	RESIDENTIAL		W14	LKD	Southerly	31	12	50	21
R7	RESIDENTIAL		W15	LKD	Southerly	52	18		
R7	RESIDENTIAL		W16	LKD	Southerly	25	7		
R7	RESIDENTIAL		W17	LKD	Southerly	39	12	66	20
R8	RESIDENTIAL		W18	BEDROOM	Southerly	54	19		
R8	RESIDENTIAL		W19	BEDROOM	Southerly	44	11		
R8	RESIDENTIAL		W20	BEDROOM	Southerly	44	11	85	23

*NOTES: 'APSH' = annual probable sunlight hours, which means the long term average of the total number of hours during the year in which direct sunlight reaches the unobstructed ground.

PROPERTY						WINDOW		ROOM	
						ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)	ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)
Room ref.	Property type	Flat no.	Window ref.	Room use	Orientation				
R9	RESIDENTIAL		W21	BEDROOM	Southerly	11	7	11	7
R10	RESIDENTIAL		W22	BEDROOM	Southerly	7	4	7	4
R11	RESIDENTIAL		W23	LKD	Northerly	20	1		
R11	RESIDENTIAL		W24	LKD	Northerly	14	1	20	1
R12	RESIDENTIAL		W25	LD	Northerly	14	1		
R12	RESIDENTIAL		W26	LD	Northerly	8	0		
R12	RESIDENTIAL		W27	LD	Southerly	2	0	14	1
R13	RESIDENTIAL		W28	BEDROOM	Northerly	4	0	4	0
R14	RESIDENTIAL		W29	BEDROOM	Northerly	5	0	5	0
R15	RESIDENTIAL		W30	LKD	Northerly	0	0		
R15	RESIDENTIAL		W31	LKD	Northerly	19	0		
R15	RESIDENTIAL		W32	LKD	Northerly	10	0		
R15	RESIDENTIAL		W33	LKD	Southerly	1	0	19	0
R16	RESIDENTIAL		W34	BEDROOM	Northerly	6	0	6	0
3rd Floor									
R1	RESIDENTIAL		W1	BEDROOM	Southerly	14	8	14	8
R2	RESIDENTIAL		W2	KITCHEN	Southerly	8	7	8	7
R3	RESIDENTIAL		W3	BEDROOM	Southerly	35	14		
R3	RESIDENTIAL		W4	BEDROOM	Southerly	6	5	41	19
R4	RESIDENTIAL		W5	BEDROOM	Southerly	7	7	7	7
R5	RESIDENTIAL		W6	BEDROOM	Southerly	8	8	8	8
R6	RESIDENTIAL		W7	BEDROOM	Southerly	51	19		
R6	RESIDENTIAL		W8	BEDROOM	Southerly	29	8	79	27
R7	RESIDENTIAL		W9	BEDROOM	Southerly	32	14		
R7	RESIDENTIAL		W10	BEDROOM	Southerly	49	19	49	19
R8	RESIDENTIAL		W11	BEDROOM	Southerly	46	13	46	13
R9	RESIDENTIAL		W12	LKD	Northerly	19	5	19	5
R10	RESIDENTIAL		W13	BEDROOM	Northerly	14	1	14	1
R11	RESIDENTIAL		W14	LD	Northerly	19	2		
R11	RESIDENTIAL		W15	LD	Southerly	4	2	19	2
R12	RESIDENTIAL		W16	BEDROOM	Northerly	4	0	4	0
R13	RESIDENTIAL		W17	BEDROOM	Northerly	5	0	5	0

*NOTES: 'APSH' = annual probable sunlight hours, which means the long term average of the total number of hours during the year in which direct sunlight reaches the unobstructed ground.

PROPERTY						WINDOW		ROOM	
						ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)	ANNUAL SUNLIGHT Proposed (% APSH)	WINTER SUNLIGHT Proposed (% APSH)
Room ref.	Property type	Flat no.	Window ref.	Room use	Orientation	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)	Proposed (% APSH)
R14	RESIDENTIAL		W18	LKD	Northerly	0	0		
R14	RESIDENTIAL		W19	LKD	Northerly	21	1		
R14	RESIDENTIAL		W20	LKD	Northerly	13	0	21	1
4th Floor									
R1	RESIDENTIAL		W1	KITCHEN	Southerly	52	18	52	18
R2	RESIDENTIAL		W2	BEDROOM	Southerly	56	21		
R2	RESIDENTIAL		W3	BEDROOM	Southerly	30	9	71	22
R3	RESIDENTIAL		W4	BEDROOM	Southerly	40	13	40	13
R4	RESIDENTIAL		W5	LKD	Southerly	58	23		
R4	RESIDENTIAL		W6	LKD	Southerly	46	13		
R4	RESIDENTIAL		W7	LKD	Southerly	57	18		
R4	RESIDENTIAL		W8	LKD	Southerly	46	13	92	29
R5	RESIDENTIAL		W9	BEDROOM	Northerly	21	2	21	2
R7	RESIDENTIAL		W11	BEDROOM	Northerly	25	5	25	5
R8	RESIDENTIAL		W12	LKD	Northerly	22	2		
R8	RESIDENTIAL		W13	LKD	Northerly	9	0		
R8	RESIDENTIAL		W17	LKD	Southerly	44	15	66	17
R9	RESIDENTIAL		W14	BEDROOM	Northerly	14	2	14	2
R10	RESIDENTIAL		W15	LD	Northerly	21	1		
R10	RESIDENTIAL		W16	LD	Northerly	14	1	21	1

*NOTES: 'APSH' = annual probable sunlight hours, which means the long term average of the total number of hours during the year in which direct sunlight reaches the unobstructed ground.

APPENDIX D

-

LAYOUT PLANS WITH ADF RESULTS

DRAWING NOS. ROL00679_R05_V02_401-01 TO 401-05

LEGEND:

- Room Layout from Plan/ Inspection
- Room Layout - Notional

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS

Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 10/02/2022



0m 1m 2m 3m 4m 5m 6m 7m 8m



GROUND

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CLIENT: PLATINUM LAND

PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ

SCHEME REF: SCHEME RECEIVED: 10/02/2022

DRAWING TITLE: AVERAGE DAYLIGHT FACTOR INTERNAL FLOOR LAYOUTS Proposed Building

MODELLED BY/ DRAWN BY: MZ DATE: 16/02/2022 SCALE: 1:150 A3

PROJECT No: ROL00679_ R05_ V02_ DRAWING No: 401-01

Daylight & Sunlight

LEGEND:

- Room Layout from Plan/ Inspection
- Room Layout - Notional

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS

Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 10/02/2022



0m 1m 2m 3m 4m 5m 6m 7m 8m



1ST FLOOR

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CLIENT: PLATINUM LAND		
PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ		
SCHEME REF: SCHEME RECEIVED: 10/02/2022		
DRAWING TITLE: AVERAGE DAYLIGHT FACTOR INTERNAL FLOOR LAYOUTS Proposed Building		
MODELLED BY/ DRAWN BY: MZ	DATE: 16/02/2022	SCALE: 1:150
PROJECT No: ROL00679_R05_V02_401-02		VERSION No: A3
Daylight & Sunlight		

LEGEND:

- Room Layout from Plan/ Inspection
- Room Layout - Notional

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS

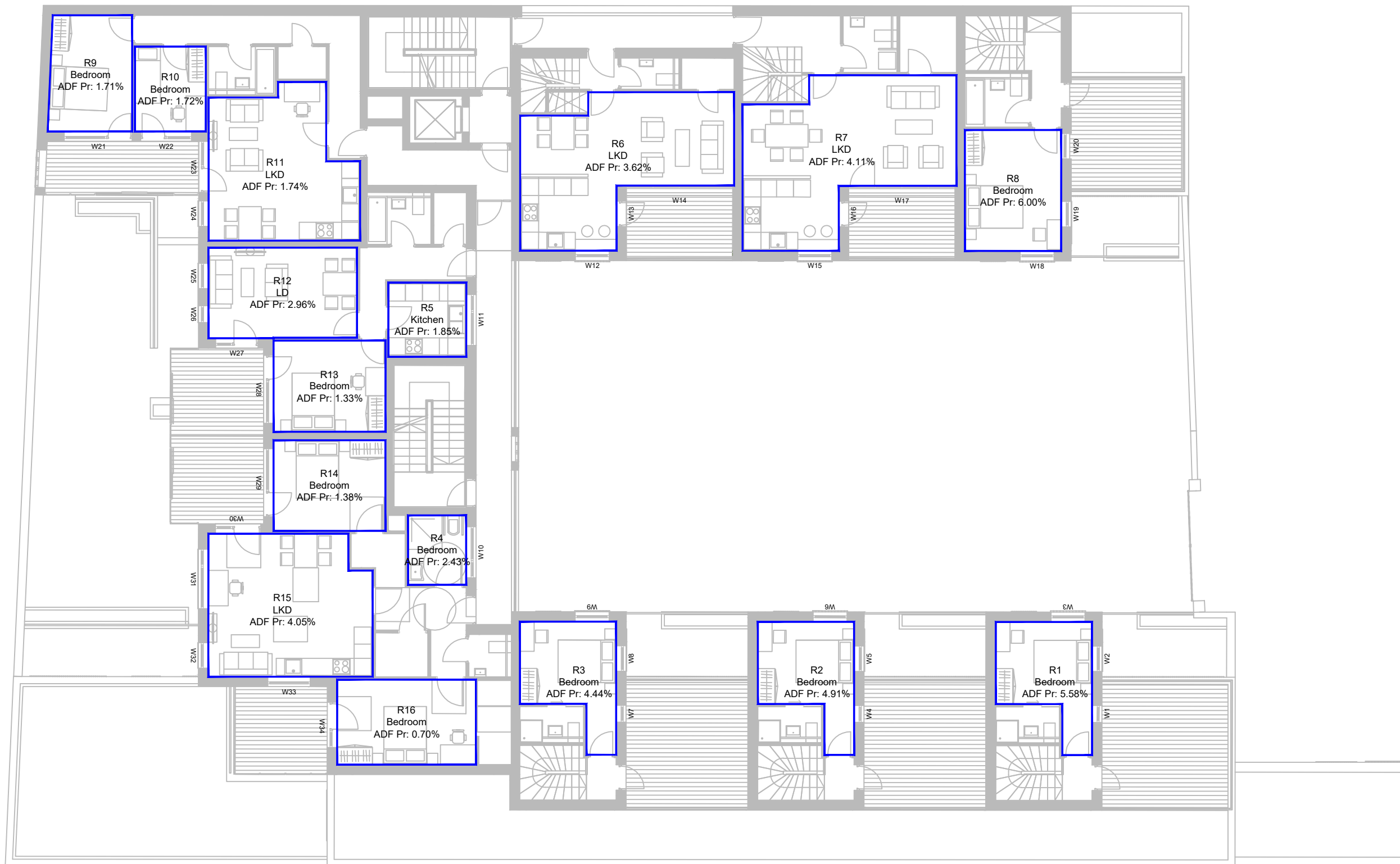
Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 10/02/2022



0m 1m 2m 3m 4m 5m 6m 7m 8m



2ND FLOOR

REV	DESCRIPTION	DATE

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CLIENT: PLATINUM LAND

PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ

SCHEME REF: SCHEME RECEIVED: 10/02/2022

DRAWING TITLE: AVERAGE DAYLIGHT FACTOR INTERNAL FLOOR LAYOUTS Proposed Building

MODELLED BY/ DRAWN BY: MZ DATE: 16/02/2022 SCALE: 1:150 A3

PROJECT No: ROL00679_R05_V02_401-03 RELEASE No: VERSION No: DRAWING No:

Daylight & Sunlight

LEGEND:

- Room Layout from Plan/ Inspection
- Room Layout - Notional

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS

Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 10/02/2022



0m 1m 2m 3m 4m 5m 6m 7m 8m



3RD FLOOR

REV	DESCRIPTION	DATE
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CLIENT: PLATINUM LAND

PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ

SCHEME REF: SCHEME RECEIVED: 10/02/2022

DRAWING TITLE: AVERAGE DAYLIGHT FACTOR INTERNAL FLOOR LAYOUTS Proposed Building

MODELLED BY/ DRAWN BY: MZ DATE: 16/02/2022 SCALE: 1:150 A3

PROJECT No: ROL00679_R05_V02_401-04 RELEASE No: VERSION No: DRAWING No:

Daylight & Sunlight

LEGEND:

- Room Layout from Plan/ Inspection
- Room Layout - Notional

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS

Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 10/02/2022



0m 1m 2m 3m 4m 5m 6m 7m 8m



4TH FLOOR

REV	DESCRIPTION	DATE
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CLIENT: PLATINUM LAND

PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ

SCHEME REF: SCHEME RECEIVED: 10/02/2022

DRAWING TITLE: AVERAGE DAYLIGHT FACTOR INTERNAL FLOOR LAYOUTS Proposed Building

MODELLED BY/ DRAWN BY: MZ DATE: 16/02/2022 SCALE: 1:150 **A3**

PROJECT No: ROL00679_R05_V02_401-05 RELEASE No: VERSION No: DRAWING No:

Daylight & Sunlight

APPENDIX E

-

TWO-HOURS SUN CONTOUR PLAN

DRAWING NOS. ROL00679_R05_V01_004

LEGEND:

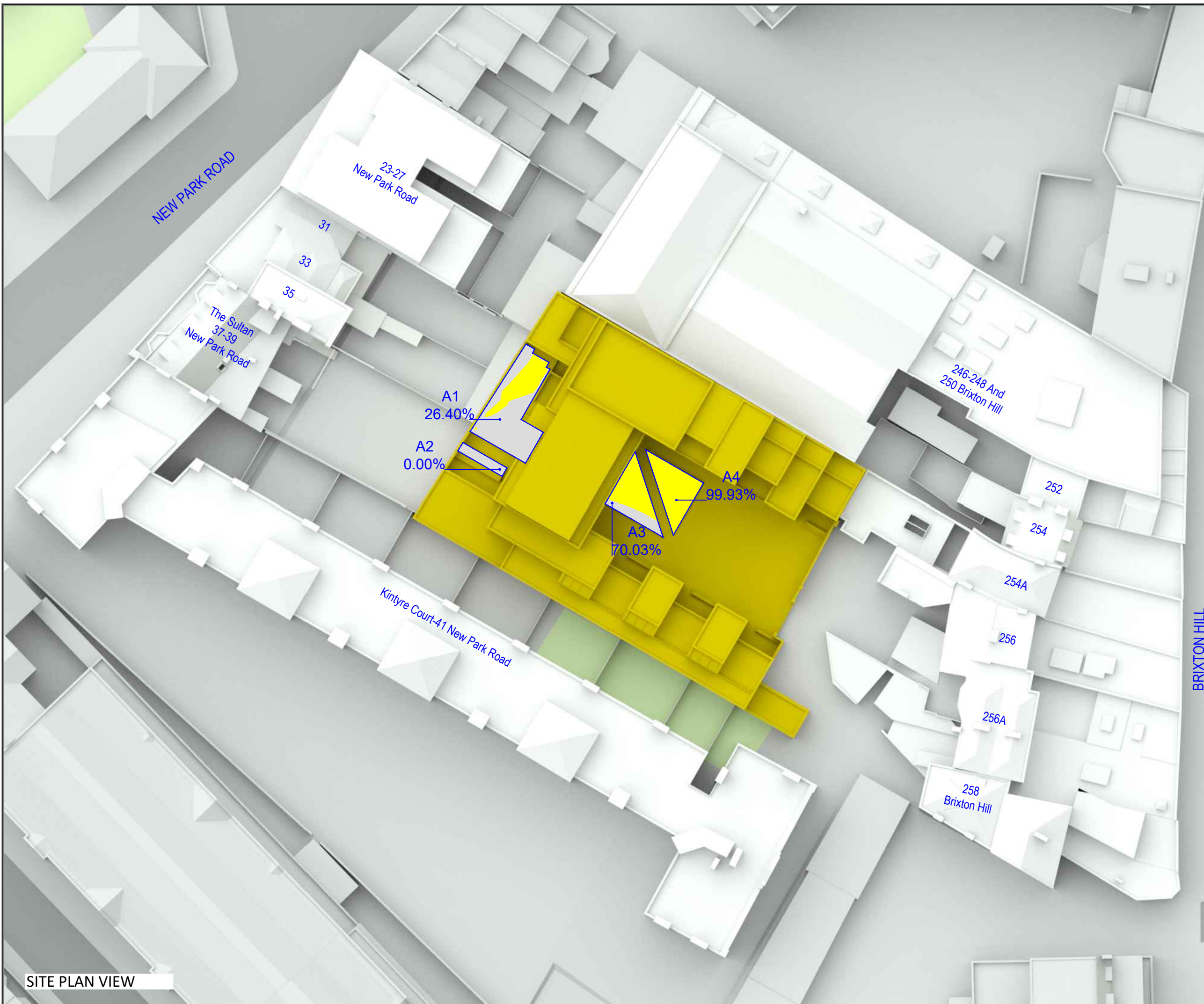
- Area receiving \geq 2hr Sunlight on 21st March (PROPOSED)
- Area receiving $<$ 2hr Sunlight on 21st March
- X%** - Percentage of Amenity Space receiving \geq 2hr Sunlight on 21st March

SOURCES OF INFORMATION:

EXISTING, SURROUNDING & ANALYSED BUILDINGS
 Z-MAP - AH POINT CLOUD
 Received on 22/06/2021

Site and aerial photos.

PROPOSED BUILDINGS
 ROHACS ARCHITECTS
 Received on 21/01/2022



SITE PLAN VIEW

REV	DESCRIPTION	DATE
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CLIENT: PLATINUM LAND		
PROJECT TITLE: 1-4 BRIXTON HILL LONDON SW2 1HJ		
SCHEME REF: SCHEME RECEIVED: 21/01/2022		
DRAWING TITLE: TWO-HOUR SUNLIGHT TEST PROPOSED CONDITION ON 21ST OF MARCH		
MODELLED BY/ DRAWN BY: MZ	DATE: 01/02/2022	SCALE: N.T.S. A3
PROJECT No: ROL00679_R05_V01_302-01	RELEASE No:	VERSION No: DRAWING No:
2Hr Sun-On-Ground		



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3 Temple Row West, Birmingham B2 5NY

T: 0121 667 9902

510 Bristol Business Park, Bristol BS16 1EJ

T: 0117 911 3061

ansteyhorne.co.uk

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Chartered Surveyors

Rights of Light | Party Walls | Building Surveying | Neighbourly Liaison

expertise
applied

APPENDIX A.5 17-37 WILLIAM ROAD APPEAL DECISION



Appeal Decision

Inquiry Held on 15-17, 22, 23, 25, 29, 30 November 2022, 1, 2, 6, 15 December 2022

Site visits made on 10 June 2022 and 31 January 2023

by Christina Downes BSc DipTP MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 24 April 2023

Appeal Ref: APP/X5210/W/21/3284957

17-37 William Road, London NW1 3ER

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Euston One Limited against the decision of the Council of the London Borough of Camden.
 - The application Ref 2020/5473/P, dated 18 November 2020, was refused by notice dated 1 October 2021.
 - The development proposed is the redevelopment of no. 35-37 to provide a 15 storey building with basement level for use as student accommodation with affordable workspace at ground floor level of no. 17-37 and improvements to ground floor façade of no. 17-33, together with public realm improvements, servicing, cycle storage and facilities, refuse storage and other ancillary and associated works.
-

DECISION

1. The appeal is allowed and planning permission is granted for the redevelopment of no. 35-37 to provide a 15 storey building with basement level for use as student accommodation with affordable workspace at ground floor level of no. 17-37 and improvements to ground floor façade of no. 17-33, together with public realm improvements, servicing, cycle storage and facilities, refuse storage and other ancillary and associated works at 17-37 William Road, London NW1 3ER, in accordance with the terms of the application, Ref 2020/5473/P, dated 18 November 2020, and the plans submitted with it. This is subject to the conditions in Annex Three to this decision.

PROCEDURAL MATTERS

2. The inquiry was postponed in June 2022 in order that amended plans could be provided to address issues of fire safety. Following receipt of those revisions, which were mainly internal to the building and included a second stair core, I ruled that the amendments could be accepted within the scope of the present appeal. I reached that conclusion having regard to the submissions of both the Council and the Appellant. The revisions to the scheme include a glazed external fire exit in place of a window, an additional stair core, provision of refuge areas and changes to some of the residential units. The number of bedspaces would be reduced by 33 to 206 in total and the proportion of one bedroom studio units would slightly increase.
3. The Planning Obligation was anticipated to be by means of a bilateral

Agreement, which was intended to meet 13 of the reasons for refusal. However, following the discussion at the inquiry there remained a number of outstanding matters to be addressed. I therefore allowed further time in order for an executed document to be submitted. However, the parties were not able to reach agreement on several clauses and so the Appellant decided to submit a Unilateral Undertaking (the UU). The Council submitted further comments on the draft of this document and there was a response from the Appellant. The completed document was eventually submitted on 30 January 2023. No further representations were permitted on the matter thereafter. I consider the UU later in my decision.

4. Although the draft planning conditions were fully discussed at the inquiry there were some outstanding points that were not resolved. Further time after the close of the inquiry was given for this information to be provided.
5. Following further information regarding the whole life carbon assessment and circular economy it was confirmed at the Case Management Conference in April 2022 that the Council would no longer be pursuing this reason for refusal at the inquiry.

REASONS

WHETHER THE PROPOSAL WOULD RESULT IN AN UNACCEPTABLE LOSS OF EMPLOYMENT OPPORTUNITIES AND FLOORSPACE

6. The appeal site comprises the ground floor of 17-33 William Road and 35-37 William Road, which is on the corner with Stanhope Street. Both buildings, which are linked at ground floor level are vacant. The former (Building B) was built in about 2001 and has five floors of apartments above. These are outwith the appeal site. The corner building (Building A) **was built in the 1960's and** comprises a basement, a 2 storey plinth and 4 storeys above the eastern half. Both buildings were previously used by Addison Lee as offices and a depot for its fleet of vehicles.

Planning policy context

7. The site is within the Euston Growth Area, Central London Area and Central Activities Zone (CAZ) designations in the *Camden Local Plan (2017)* (the Local Plan) and within the area covered by the *Euston Area Plan (2015)*. There is reference to the Knowledge Quarter in policy E1 of the Local Plan but its boundaries, which include the appeal site, are left to the emerging *Site Allocations Review*, which is currently at pre-submission stage¹. The appeal site is also included in an Article 4 direction that prevents the change of the current premises to residential use under permitted development rights.
8. In the Local Plan, policy E1 includes various criteria relating to supporting economic development and growth. It includes a provision to safeguard existing employment sites and premises that meet the needs of industry and other employers. Policy E2 seeks to protect employment premises and sites that are suitable for continued business use and support the functioning of the CAZ. Non-business uses are resisted unless the reuse or redevelopment of the site or building has been fully explored for an appropriate period of time. Higher intensity redevelopment of suitable business sites is subject to

¹ This is intended to replace the *Camden Site Allocations Plan (2013)*.

provisions that include increasing or maintaining the level of employment floorspace and including space for small and medium-sized enterprises and start-ups along with other priority uses, such as housing.

9. In the *London Plan* (2021), policy E1 relates to offices. The existing lawful use of the appeal site is as offices and in the London Plan policy E1 is directly relevant. It includes a provision that the central London office market, including in the CAZ, should be developed and promoted. It supports the introduction of Article 4 Directions to ensure that local office clusters are not undermined by changes to housing under permitted development rights. The scope for the re-use of surplus large office space for smaller office units should be explored. There is support for the change of use of surplus office space to other uses such as housing. Policy E2 states that local plans should include policies that protect a range of Class B uses where appropriate. Proposals that involve a loss of existing space in areas identified in local plans as having a shortage of lower-cost space, should show that there is no reasonable prospect of the site being used for business purposes or re-provide an equivalence of affordable workspace where appropriate.
10. The Greater London Authority (the GLA) has considered the proposal against policy E1 of the London Plan, which relates only to offices. However, it seems to me that a wider view can be justified and that policy E2 relating to business use is also relevant, especially as in the Local Plan, policies E1 and E2 are framed by the more general scope of employment use and economic growth and employment. In any event, what is common to both the strategic and local policies is the protection of office and business uses unless they are surplus to requirements. The supporting text to policy E2 in the Local Plan indicates that there should be a sustained period of marketing for at least 2 years.

Marketing

11. The existing buildings contained 2,266 m² gross internal area (GIA) of offices and 1,427 m² (GIA) of ancillary storage. The proposal would include 1,255 m² of affordable workspace. In quantitative terms there would therefore be a loss of 2,438 m² office floorspace.
12. The premises have been vacant since 2018. The evidence indicates that James Andrew International (JAi) commenced marketing in June 2019 following the purchase of the site by the Appellant. The marketing continued until July 2021 and so covered a two-year period as required by the Local Plan. **The Appellant's** evidence indicated that the interior was quite basic and that there had probably been some subletting and squatters had accessed the property at some point. The conclusion was that refurbishment would have been required and possibly a complete strip out as well, before the building could be re-used, even by a low-cost small business. I have no evidence to indicate otherwise, especially as the **Council's witness indicated that he** had not been inside the building at this time.
13. The marketing brochure offered leases on a flexible, short-term basis at a rent of £32.50 ft² on all floors, including the basement. The evidence indicated that there were offices of various sizes and on various terms in the vicinity. Whilst some were cheaper, others were much more expensive. The rental price seems to have been fair and, in any event, it is clear that the figure was a guide. In terms of the lease being offered, the evidence to the inquiry was that "**short term**" could mean anything from one to five years, perhaps with break clauses.

I find no reason to doubt that the marketing was comprehensively and professionally carried out by a well-respected firm of agents. Although the marketing brochure referred to office users there does appear to have been other interest, for example from a dark kitchen. Overall, I am not convinced that marketing the premises in this way would necessarily have deterred other employment uses from coming forward or those wanting longer leases from expressing interest.

14. The outcome of the marketing was set out in two letters from JAI. The most recent indicates that there were 31 inspections but that only one culminated in a proposal. It would have been helpful to know the reason why the other 30 failed although 5 are specified as being initially interested but put off by either the building quality or location. The single proposal was made by One Avenue, which is a serviced office company. However, this never progressed because the company wanted the landlord to pay for the refurbishment and this was not considered to reflect the rent it was willing to pay. There is no detail about the length of lease being sought or what improvements had been requested. However, for serviced offices it seems likely that the building would have needed to be reconfigured to provide individual lockable units with a street entrance and reception area. As things stand the only entrance to Building A is through the rear parking area of Building B. Overall, I consider that an adequate marketing exercise was undertaken that was sufficient to establish minimal market interest in the premises.

Existing situation and market demand

15. Notwithstanding the situation at the time of marketing, Building A has now been completely stripped out of facilities and services. At my site visit I noted that the interior appeared to be in very poor condition with water ingress to parts of the interior.
16. The appeal site is in a very accessible location with many public transport options close at hand. It is also within the Euston Growth Area and the CAZ, albeit on the edge of the latter. However, from the information I was given it is clear that there is plenty of high-quality office floorspace available within this vicinity, including around Euston Road and the clusters of large floorplate premises in Regent's Place. Whilst not far away in terms of distance, William Road and its surroundings do not have the same vibe, activity or energy. Rather, the area is characterised by a more eclectic mix of smaller scale employment uses. It is also influenced by the large area of social housing at the Regent's Park Estate.
17. There was much mention at the inquiry of The Lantern, which is a recently refurbished mixed-use development. This does include good quality office space, although a fair proportion remains vacant. In any event, although this building is within the same urban block, its location is more akin to the busier office area **of Regent's Place as it has** frontages onto Drummond Street and Hampstead Road.
18. The GLA in its consultation response did not consider that the appeal site is in a particularly desirable location for offices. It also indicated that there is an abundance of office space of different quality and size in the immediate vicinity of the appeal site and the wider CAZ area. The premises are clearly in poor condition and their configuration is not fit for purpose for smaller scale offices or employment uses. The evidence to the inquiry suggested that there is a

good supply of smaller, lower rent offices, co-working floorspace and small business premises in the area. Both of the expert witnesses are experienced practitioners within their field of expertise. However, the work of the **Appellant's witness is** specifically in the field of development and property acquisition, and it seemed to me that he had a broader understanding of the local employment market. Bearing this in mind, I consider that his market-based evidence is to be preferred. The marketing exercise supports the conclusion that the premises are surplus to requirements.

Viability for office uses

19. Bearing in mind the outcome of the marketing exercise and the evidence about existing provision, the viability assessments are of limited use in considering whether the premises or site is surplus to requirements for office or employment use. I consider them nonetheless. The exercises that were undertaken were to replace the existing floorspace through refurbishment or redevelopment. It is appreciated that the site was purchased for a price that bears no relation to its value in terms of policy compliant uses. That should not therefore be a cost factor because any alternative policy compliant use would likely be unviable against a purchase price of over £2m. When this was removed as a cost in the work undertaken by both parties in October 2022, the Council came up with a positive residual land value of £3.8m for redevelopment and £3.9m for refurbishment.
20. **However, the developer's profit of 15% on cost** is in my opinion too low in a market that has been seriously affected by the risks associated with the Covid-19 pandemic, Brexit and most recently the war in Ukraine. Reference was made to the *London Plan Viability Study*, which advocated a developer's profit of 15-20% on cost for commercial development. However, that guidance was published in 2017 and does not reflect current market conditions. In terms of yields, the Council has not accounted for any change since the first quarter of 2022. Whilst it refers to a JLL Report indicating that yields remained stable in Q2 of that year the Appellant pointed to more recent market volatility and investment risk. **Just adopting the Appellant's assessment on these two inputs** would considerably reduce the residual land value. It seems to me that a willing landowner would be very unlikely to be incentivised to sell the site, notwithstanding its shortcomings in terms of location and quality.
21. Anyway, the scenarios that were viability tested bear little relevance to reality. In the case of refurbishment, as I commented above, the most likely occupiers would be small employment users looking for cheap space. However, these users would not generate the Grade A values that were tested in the assessments. Whilst they may accept lower specification refurbishment the building would still need to be improved, services reinstated, and all the relevant safety requirements put in place. Furthermore, if reconfiguration were required for multiple occupiers, this would involve further cost. The redevelopment scenario involved a building with a similar amount of floorspace, but in reality, this would seem to be a poor use of the site, and one that I cannot envisage would be built.

Alternative mix of uses

22. The Council was critical that other redevelopment possibilities had not been investigated. This would be likely to involve a taller building containing a mix of commercial and residential uses. The Design Review Panel mentioned 8 storeys

as a more suitable height, but there is no guarantee that the Council would accept such a proposition. Furthermore, the evidence of the Architect of the scheme was that a mix of employment use and student accommodation would require separate cores for services, stairs and lifts and separate entrances and reception facilities. She indicated that such a scheme had been considered at pre-application stage and discounted because of these difficulties, which were considered to lead to compromised floorspace. She opined that whilst anything is possible, it would result in an inefficient use of land and would never be built. Considering the relatively restricted area of land in question this does not seem to me an unreasonable conclusion to reach.

23. The site is within the draft Knowledge Quarter Innovation District where there are a cluster of institutions that specialise in the life sciences, data and technology and the creative industries. The Council referred to the Francis Crick building near St Pancras station. Whilst this may be in a backstreet location close to social housing it is a large modern building that has provided its own context and is very different to the situation at the appeal site. The **Appellant's** evidence, which seemed to me to be credible, was that the site would be too small for such uses and that the fit-out would be much more expensive than typical office space. It was explained that specialist requirements included greater floor to ceiling heights, stronger floor loadings and stronger roof constructions to accommodate ventilation systems.

Conclusions

24. The proposal would result in a net loss of 2,348 m² of office floorspace. However, for all of the reasons given above I do not consider that there is any reasonable prospect of a refurbishment or redevelopment for offices or employment uses. I have also considered lower value uses but again, from the evidence, there would be little likelihood of such a scenario happening. These conclusions are supported by the marketing exercise and the expert evidence of the local market. The viability assessments do not suggest otherwise. The proposal would be in accordance with policies E1 and E2 in the Local Plan and policies E1 and E2 in the London Plan.
25. It is also highly relevant to bear in mind that the proposal would include 1,255 m² high quality affordable workspace. Following negotiations with the Council this would be offered at 50% of market rent. The evidence suggests that taking account of the price, quality and flexibility offered by this workspace, it would be attractive to small local business users within the CAZ.

THE EFFECT ON THE CHARACTER AND APPEARANCE OF THE AREA

26. Building A has frontages to both William Road and Stanhope Street. It has nothing to commend it, but is not untypical of many office buildings constructed **in the 1960's**. The 2 storey flat-roofed plinth with its concrete clad walls presents poorly at street level and the reflective high-level ground floor windows provide no meaningful activity along the Stanhope Street frontage. The result is a particularly weak and poorly considered feature on this corner site. This and the 6 storey element have no discernible relationship but rather form two parts of a disparate composition. *The Historic Area Assessment* (2014) (the HAA), which formed part of the evidence base to the Euston Area Plan, considers that there is a negative building frontage at this point and that the building is a poor termination of the corner. I agree.

27. The building contributes nothing to its surroundings and its replacement with something more appropriate, well designed and interesting would be a considerable benefit. The Council has no objection to the demolition of the existing building, although I do not agree with its contention that this is a neutral feature in the streetscape for the reasons given above. Its objections to the proposal relate to height, mass, scale and footprint. I consider these matters further below.

Planning policy context on tall buildings

28. Policy D1 in the Local Plan indicates that all of Camden is considered sensitive to the development of tall buildings. These are defined in the supporting text as buildings that are substantially taller than their neighbours or which significantly change the skyline. Bearing in mind that the buildings within the immediate vicinity are no higher than 8 storeys, the appeal scheme at 15 storeys would fall within the definition of a tall building. Policy D1 includes a number of criteria applicable to the consideration of a tall building proposal. These include how it would relate to its surroundings in terms of the streetscape, the skyline and its relationship to views.
29. Policy D9 in the London Plan relates specifically to tall buildings and requires local plans to determine where such buildings may be appropriate. The policy also includes various impacts that would need to be addressed and I return to these below. The Local Plan does not identify such areas of suitability and so is not in conformity with the London Plan in this respect. However, there is no suggestion that the entire Borough is unsuitable for such development.
30. The Euston Area Plan was adopted prior to either the Local Plan or the current version of the London Plan. It includes a plan of indicative building heights and two indicative areas for taller buildings around the station itself. However, it cannot purport to relate to the policy D9 exercise most particularly because it only covers part of the Borough and preceded the Local Plan, which refers to the whole Borough being sensitive to tall buildings.
31. There is therefore no policy impediment to a tall building on the appeal site in principle. Until such time as a compliant policy is adopted, the acceptability or otherwise will depend on a site-specific assessment against the criteria in policy D9 and also those provisions listed in policy D1 of the Local Plan.
32. The site is located within the CAZ and Euston Opportunity Area and has the highest level of accessibility at PTAL 6. Policy D3 in the London Plan seeks to optimise site capacity through the design-led approach. This is to be based on an **evaluation of the site's attributes, its surrounding context and its capacity for growth**.

Existing character and appearance of the area

33. When considering whether the appeal proposal would relate successfully to its surroundings much will depend on how these are defined. The HAA provides a good starting point. This document provided part of the evidence base to the Euston Area Plan and was undertaken by Allies and Morrison who are agreed to be well respected urban practitioners. They identified a number of character areas, including **Regent's Place and the area around Euston Road**, the **Regent's Park Estate** and the two urban blocks on either side of William Road, which contain the appeal site. It is important however to bear in mind that the

townscape is experienced dynamically and that character areas are not static compartments and often have interactions with each other.

34. Regent's Place is to the south of the William Road character area. It is a modern, mainly commercial, area developed around the site of the Euston Centre, which was part of **a 1960's scheme** that included the 36 storey Euston Tower. This survives but the remainder was redeveloped, and there are now large-scale buildings standing within a well-landscaped public realm, including Triton Square. Many of the buildings have glazed walls. They vary in height and include the 26 storey Triton Building. Regent's Place is bound by Drummond Street and Longford Street to the north and Euston Road to the south.
35. **The Regent's Park Estate**, which lies to the north and west of the William Road character area, is a comprehensively planned post-war council housing estate **built in the 1950's**. It was built in 3 phases, each designed by different architects. The second phase is on the northern side of Robert Street and includes 11-storey slab blocks and some lower terraces. The third phase is to the west of Stanhope Street and the south of Robert Street. This comprises mainly terraces of 4-storey maisonettes around precincts and green spaces. It includes the vestiges of two of the former Regency market squares. This part of the estate also contains Bucklebury House and The Combe, two 19-storey residential towers, which from all accounts were constructed to raise the overall density of the estate.
36. The William Road character area comprises two urban blocks on either side of the street. The southern block, which contains the appeal site, was heavily bombed in the war and the replacement buildings include both commercial and residential uses. These include the aforementioned 7 storey development called The Lantern, which has recently been refurbished and occupies the eastern side of the block and turns the corner into Drummond Street. At the other end of the scale are the 19th century town houses along the western side of the block that comprise the vestiges of the terraces that once occupied much of this area. Two of these houses and the adjoining former public house are Grade II listed buildings. The block also includes two locally listed warehouse buildings 4 and 5 storey in height.
37. The northern block includes the Netley Building on its western side, built in 2015. This includes the Foundation unit, a primary pupil referral unit, a community learning centre and 80 flats, including the 8 storey Winchester Apartments opposite the appeal site. Netley School is a Victorian locally listed building on the northern side of Netley Street, a cul-de-sac that penetrates the block. On the other side is a terrace of modern 3 storey town houses. These back on to a small group of recently built industrial units that stand back from William Road behind a parking area. Adjoining them is the locally listed Hampstead House. The HAA indicates that there is no prevailing style, height or palette of materials and refers to this character area as a **"backwater" between Hampstead Road and the Regent's Park Estate**.
38. The two urban blocks do not have a sense of uniformity that would translate into an identifiable character in the same way as **the Regent's Park Estate**, for example. That is not to say that the buildings necessarily lack quality, because that is clearly not the case. However, even in terms of height there is variation, ranging from the 3 storey listed buildings to the 8 storey Winchester Apartments. The scale, which includes mass and footprint is also far from

uniform, as can be seen in a comparison of The Lantern and the listed buildings, for example.

39. When considering the appeal site and the building proposed to be built on it, it is appropriate to also have regard to its relationship with the tall buildings in **Regent's Place and the** blocks and towers on the **southern part of the Regent's** Park Estate as well as the more immediate environs of the urban block in which it stands. The nearby tall buildings do not set a precedent for what would be acceptable, but they do provide context and should not be ignored when considering the visual effect of the proposed development.

Design of the appeal scheme

40. The *National Planning Policy Framework* (the Framework) makes clear that planning and the development process should achieve high quality, beautiful and sustainable buildings and places. The new building would stand 15 stories tall with a shoulder height of 6 storeys. There would be 3 clear parts to the structure of the building, the base, the tower and the crown. The base would extend across each site frontage. On the Stanhope Street elevation, the recessed window bays and entrance would provide activity at ground level and an engaging connection with the pedestrian. It is noted that the HAA identifies the appeal site as the only poorly defined or neutral frontage in its urban block. In recognition of the adjacent 4 storey houses, there would be a set-back at this height and a further set back and chamfered corner 2 storeys above. This would align with the locally listed warehouse building on the corner with Drummond Street. The fenestration on the lower part of the building would have a horizontal emphasis with double bays and inset panels.
41. The upper part of the building, which is essentially the tower and crown, would have a vertical emphasis with changed proportions that would contribute to the verticality of this part of the structure. There would be a chamfered edge at the street corner and also at the 6 storey cut-back where the building would adjoin 17-33 William Road. A further cut-back at 8 storey level and chamfering would further help reduce the mass and mediate the height on this part of the building.
42. A taller tower supported by an urban block with a larger base footprint was **referred to in the Appellant's evidence as an embedded tall building**. There was much debate at the inquiry about whether this was a recognised typology. The Design Review Panel (DRP) in considering the proposal at pre-application stage, believed that it combined two confused typologies and resulted in an over-scaled development in terms of bulk and height. The DRP considered that it should either be a slenderer tower standing back from the corner in its own space or alternatively a warehouse/ mansion block that addressed the street and filled the site at around 8 storeys.
43. I appreciate that the DRP provides a valuable service by giving the Council an independent view on design matters and that the 5 Panel members are experienced local architects. However, there is no obligation or policy requirement to follow its advice. From the evidence to the inquiry, it was clear that the scheme Architect, who also has considerable design experience, had **considered the DRP's assessment**. However, she explained why she did not agree with its conclusions and therefore did not make the changes that the DRP recommended.

44. The Greater London Authority (the GLA) also has considerable expertise in the assessment of proposals for tall buildings. Whilst it is the strategic planning authority, it advises at a Borough level and its views are thus a consideration of importance. In this case the Mayor did not call-in the application for his own determination but nonetheless the GLA raised no objection to the form, scale or height of development proposed. Indeed, it considered that it would successfully mediate between the large-scale commercial buildings **in Regent's Place, the nearby towers on the Regent's Park Estate and** the finer grain shoulder buildings along Stanhope Street and William Road.

Effect of the proposed development on character and appearance

45. As I have already commented, the urban blocks intersected by William Road do not have an identifiable character or sense of uniformity. For the reasons given above when considering context, it is important to have regard to a wider horizon that includes the way the site is experienced dynamically within the townscape. A *Townscape, Visual and Built Heritage Assessment* was submitted with the planning application. This includes photomontages to demonstrate the visual effect of the proposed building from a number of viewpoints. In addition, further views with the development in place were submitted with the evidence, including some winter views. Furthermore, I undertook two extensive site visits around the surrounding area. I agree with the main parties that long views are not the issue in this case because the tall building would be seen within a panorama whose skyline is already punctuated by various tall structures. It is therefore local views that are of most relevance.

46. In that regard, my main observation is that the appeal scheme would be appreciated from relatively few places due to the density of the urban environment. Furthermore, where it would be discernible this would rarely be in isolation. In most approaches it would be experienced within the context of other tall **development outside the urban block, most notably in Regent's Place and the Regent's Park Estate**. There are various mature street trees, which provide dense foliage cover in the summer months. However, in my consideration I have discounted the trees because their screening effect is much reduced when devoid of leaf. In addition, their longevity cannot be guaranteed in perpetuity.

47. Within the context of the two urban blocks that make up the William Road character area the appeal scheme would be taller than its neighbours. The question to ask is whether this would be unduly harmful. For the reasons I have given I do not consider that the urban block or the William Road character area, is the correct context in which to assess the impact. Taking a wider perspective, I agree with the GLA that the new building would mediate between **the cluster of taller buildings in Regent's Place and the** lower scale of buildings further to the north. In any event, there is no reason for this building to be hidden away. To my mind its quality in terms of its architectural form and detailing should be something to be celebrated. It would undoubtedly lift this corner by replacing the drab and uninspiring building that currently occupies the site with a development that would successfully enhance the built environment in which it would stand.

48. There was debate at the inquiry about whether the appeal building was intended as a landmark on this corner site and, if so, whether this would be an appropriate location for such a structure. A landmark building is designed to be

different and stand out from its surroundings. The *National Design Guide* comments that if well designed, tall buildings play a positive urban design role in the built environment, acting as landmarks, emphasising important places and making a positive contribution to views and the skyline. For the reasons I have given I believe that the appeal proposal would contribute positively in these ways. However, I am not overly convinced that it could be classed as a landmark, mainly because there are a number of higher stand-out buildings in the immediate vicinity.

49. The new building would align with the back of the pavement. The objective would be to follow the historic building line that exists to the south, which has been lost further to the north and west. The Council considers that it should have been set back to mitigate its height and mass and contribute more positively to the public realm. However, there are examples nearby where this has clearly not been successful, including Bucklebury House. Whilst the tower itself is set back it stands atop a ground level car park that presents a bleak wall along the back edge of the pavement. The brickwork elevations of Bucklebury House itself have little articulation and present a rather overbearing presence when viewed from the street. By contrast, the appeal building would provide visual interest at ground level and a human scale in the pedestrian view. Furthermore, improvements are proposed, including the potential planting of street trees close to the site. In this respect it would contribute to the public realm.

Conclusions

50. The appeal site would be an acceptable location for the proposed tall building. This **would have a successful relationship with the towers in Regent's Place** to the south and the generally lower scale that **characterises the Regent's Park Estate**. This is a highly accessible brownfield site within a central London location. The proposal, unlike what is there at present, would optimise its use with a building of strong architectural expression, high quality and attractive design. It would integrate successfully with its surroundings and provide a strong visual statement on this corner site. It would also entail the removal of an existing building, which makes no contribution to the character or quality of the street scene.
51. The proposed development would not adversely affect the character and appearance of the area. In this regard it would comply with policies D3 and D9 in the London Plan and policy D1 in the Local Plan.

THE EFFECT ON THE SETTING OF NEARBY HERITAGE ASSETS

52. There are a number of undesignated heritage assets in the form of locally listed buildings within this vicinity. However, I agree with the main parties that the proposed development would cause no harm to their significance. I further concur that the buildings in question are the Grade II listed buildings at 48, 50 and 52 Stanhope Street and that the appeal site falls within their setting. The main dispute relates to whether there would be harm to the significance of these designated heritage assets. The Council clarified at the inquiry that it considered that it considered the harm to be at the lower end of the spectrum of less than substantial harm. The Appellant did not consider that there would be any harm to significance at all.
53. The Framework defines the setting of a heritage asset as the surroundings in

which it is experienced. It indicates that it may change over time and may **make a positive, neutral or negative contribution to the asset's significance.**

Whilst the way the asset can be appreciated visually is important, other factors can also be relevant. *The Setting of Heritage Assets* (2017) (GPA 3) by Historic England provides a staged approach to how development within the setting of a heritage asset should be considered.

Significance of the heritage assets and the contribution of setting

54. The significance of a heritage asset concerns its heritage value. The Framework indicates that its interest in this regard can derive from its archaeological, architectural, artistic or historic value. ***Historic England's Conservation Principles, Policies and Guidance*** (2008) provides advice on how heritage value may be considered and this falls into 4 broad categories: evidential, historic, aesthetic and communal. *Conservation Principles* provides an updated version of the 2008 document and one of the purposes is to try to aid decision-makers by being more consistent in terms of language with other documents such as the Framework. It has not been published, but there is no suggestion that the values and interests in the 2008 document have changed.
55. Nos 50 and 52 are modest sized town houses constructed at the beginning of the 19th century. Their significance is mainly due to their historical value as a vestige of the 19th century urban environment that has now largely disappeared. Many of these terraces, including in the vicinity of the appeal site, were subject to bomb damage and regeneration. There are also two other remaining houses in the terrace that adjoin the southern side of the appeal site. However, these have been much altered and have no heritage designation. Between them and the listed houses is a 4 storey residential infill development with a gated access.
56. These **are termed "fourth rate" houses** and connect to the history of the working classes who lived on the secondary streets within this part of London. They were smaller houses mainly occupied by tradespeople and contrasted to the much grander **"first rate" Regency terraces that front onto Regent's Park.** The listing level reflects the rating, but it does not mean that **"fourth rate"** houses are insignificant in terms of their value. In fact, their lower status resulted in many disappearing as a result of clearance and regeneration and so there is importance in terms of their relative rarity. They are one of the few components of a largely vanished historic townscape. Nevertheless, the houses do have design value from their simple exterior detailing, modest proportions and ordered fenestration. These are the main attributes that determine the significance of the listed buildings.
57. The significance of No 48 relates to its historic and architectural value. Although not now used as a public house the site has a longstanding history of such use that is contemporary with the adjoining residential properties. It was built as a public house at the end of the 19th century having replaced an earlier building that was part of the domestic terrace with the ground floor likely to have been used for storing and consuming alcohol. The rebuilt public house has similar proportions to the town houses due to the constraints of the plot, although it extends a storey higher.
58. No 48 has importance as a place that served those working people in its locality. It was part of the pub building movement that followed a change in the licensing laws in the late 18th century. It was designed to stand out and be

seen through its ornate and flamboyant architecture. It has an elaborate decorated exterior, including an arched first floor window with a keystone and panelling below. The exuberant design is reflective of the architecture of the Victorian Gin Palaces during the high point of pub building as noted in Historic England's *Commerce and Exchange Buildings: Listing Selection Guide*. No 48 contrasts with the simpler and more austere features of the adjoining town houses. The three listed buildings have additional value as a group.

59. The listed buildings are experienced in a setting that in this case is mainly defined by the places from where they can be seen. This is because there is relatively little of the pre-existing townscape remaining within this vicinity and therefore the wider functional, historic or aesthetic relationships are no longer apparent. The once domestic scaled urban environment now includes a townscape of a completely different grain and scale.
60. The two urban blocks that form the William Road character area have been extensively redeveloped with buildings that bear little relationship to the historic past. The map regression shows that the southern block contained terraced housing and other uses along the road frontages and within its interior. Whilst the redevelopments may be confined in height to 4-8 storeys, I do not consider that buildings such as The Lantern or Schafer House are domestic in scale.
61. **The tall buildings of Regent's Place** rise above and behind the terrace. Although the full 19 storey height of Bucklebury House is set back from the road it is nonetheless a very dominant feature within the setting of these buildings. Indeed, the only piece of historic townscape remaining in the vicinity, other than the market squares on the Regent's Park Estate and the listed buildings, is occupied by the two unlisted houses adjoining the appeal site. The modern infill has attempted to retain historic rooflines, plot widths and window pattern to a degree. The locally listed warehouse building was built in the early 20th century and provides a prominent element at the southern end of the terrace and turning the corner with Drummond Street. The HAA refers to this frontage as having group value. This immediate setting is therefore important.
62. To my mind the wider setting makes little if any contribution to significance. There is nothing about the existing building on the appeal site that reflects or is complementary to the historical or architectural value of the listed buildings. Just because it does not obstruct views of the listed buildings does not mean that it is either a positive feature within the setting or that it contributes to significance. As I have already commented, the HAA refers to this as a negative building frontage.

Effect of the proposed development on significance

63. The significance of the listed buildings is mainly due to their inherent architectural and historic value, which would not change. The setting contributes relatively little, for the reasons I have given. As I have explained, the proposed new building would be a positive and attractive element in the streetscape that through its design and architectural detailing draws from its urban surroundings and integrates successfully with the host environment. Indeed, the removal of the existing negative building and its replacement with a high quality new building would, in my judgement, enhance the setting.
64. Historic England's **Advice Note 4: Tall Buildings** (2022) provides advice on

planning for tall buildings within the historic environment. Whilst it tends to focus its resources on higher grade assets, the Appellant sought its views at pre-application stage. In its response Historic England made clear that its main concern was with the effect on the Grade I Regency terraces and the protected view to the Palace of Westminster. Nevertheless, it did comment on the effect on the Grade II heritage assets and indicated that it had “no significant concerns”. Whilst it did not say in terms that it did not object, any reasonable reading of its words would conclude that was the case. As the Government’s statutory adviser on heritage matters, I give its comments which reflect its guidance significant weight.

65. The GLA is the strategic planning authority but has considerable experience of advising on tall building proposals, including in terms of their effect on heritage assets. It is not unreasonable to surmise that the GLA is familiar with this area due to its involvement with the ongoing regeneration projects, including around Euston Station. Its conclusion was that the proposed development would cause no harm to the setting or significance of the listed buildings.

The protected views

66. The site is within 2 London View Management Framework (LVMF) Protected Vistas. LVMF 5A.2 is from Greenwich Park looking towards St Paul’s Cathedral. LVMF 2A.2 is from Parliament Hill looking towards the Palace of Westminster. The proposed building would rise above the threshold plane of the latter, and thus would not comply with the LVMF guidance. However, it would be viewed within the context of the taller building at 10 Brock Street, which was constructed before the view was designated. Historic England is satisfied that in these circumstances the outstanding universal value of the World Heritage Site would be preserved and the GLA has not raised objections on this ground.

Conclusions

67. For all of the above reasons, it is concluded that there would be no harm to the significance of the designated heritage assets and that the value of the protected views would be preserved. In this respect, the appeal development would comply with policy D2 in the Local Plan and policy HC1 in the London Plan. Policy HC4 in the London Plan concerns the LVMF. As the development would exceed the threshold height of the Landmark Viewing Corridor to the Palace of Westminster it would conflict with criterion F1 and therefore would not be in accordance with that policy. I consider the implications of this later in my decision.

THE EFFECT ON THE LIVING CONDITIONS OF NEARBY RESIDENTIAL PROPERTIES

Winchester Apartments

Daylight and sunlight

68. This 8-storey high building is on the northern side of William Road, opposite the appeal site. There are 14 single aspect flats that face towards the appeal site, each with a balcony. These are the most likely to be affected in terms of daylight and sunlight. The *Rainbow* and *Guerry* High Court judgements make clear that the correct approach is in two stages. First it is necessary to consider whether there would be a material deterioration in day and sunlight and then to consider whether any losses would be acceptable. The numerical target

values are from the British Research Establishment guidance: *Site Layout planning for sunlight and daylight* (2022) (the BRE Guidance). Vertical Sky Component (VSC) measures the amount of daylight reaching the window and No Sky-Line (NSL) measures the distribution of light within the room. It is to be noted that both target values are advisory.

69. The BRE Guidance indicates that if VSC is below 27% or 20% of its former value, the loss of daylight would be noticeable. At present the VSC is below 27% for all windows other than on the top floor. However, if an allowance is made for the balconies, the VSC is just below the target value of 27% for the first and most second floor windows, but above 27% for all other windows. This demonstrates that it is the balconies that are mainly responsible for reduced levels of daylight. With the development in place, all windows would lose at least 20% of the former level of daylight, even making an allowance for the balconies.
70. The default VSC target of 27% is derived from a 25° development angle between buildings of 2-3 storeys in height. However, in many urban situations, especially in Central London, such street typologies are not necessarily the norm. Brownfield sites need to be used efficiently and it seems very unlikely that the current height configuration of Building A would endure in any redevelopment of the appeal site. During the discussion at the inquiry, both of the expert witnesses agreed that a lower VSC could be justifiable in this case. The Council suggested 17.5% and the Appellant favoured 15%. This is the so-called “mid-teens” approach, which is often adopted in densely developed urban areas. In the existing situation and with an adjustment for the balconies, all windows reach a VSC level of at least 17.5%. In the comparative situation with the development in place, only the first-floor windows would not reach 17.5% VSC but all would reach 15% VSC.
71. Turning to NSL, the living rooms are 7-8m in depth and the bedrooms are in excess of 5m in depth. This has a considerable bearing on the resulting values especially considering the configuration of the appeal building with its lower 2 storey element. The BRE Guidance indicates that there would be a noticeable effect if the NSL is 20% of its former value. The reduction in NSL for all but two rooms would exceed 20% with the development in place and it would exceed 40% for most windows up to fourth floor level. The effect of the balconies would make little difference.
72. However, there is no target for NSL and so possible alternative values cannot be considered. Furthermore, it is important to bear in mind that there may be only a sliver of sky, but this will not necessarily equate to a good light level. Further back in the room, notwithstanding a seemingly reasonable NSL value, it can be quite gloomy. In the present case the 2 storey section of the appeal building will allow some sky to be seen. Any new building that increases that 2 storey height would cause relatively large changes of NSL even though changes in light levels may be relatively small, especially further back in the room. For these reasons the NSL measure is less useful in this case.
73. The rooms in question face south and so it is appropriate to consider whether there would be undue impacts in terms of overshadowing. The BRE Guidance recommends that the Annual Probable Sunlight Hours (APSH) received by a window should be at least 25% of the annual total available. This includes 5% in winter. Where the absolute loss is greater than 4% then the proportional

reduction should not be greater than 20%. All but 3 rooms meet the recommended guidelines for APSH. Two are living/ kitchen/ dining rooms and would retain 3% and 4% in winter although general levels would be much higher than the 25% target. The third is a bedroom that would receive adequate winter sunlight but a total of 23%, which would be marginally below the target value.

74. In conclusion, the assessment shows that there would be a noticeable change in the daylight levels within the rooms in question, which are either bedrooms or kitchen/ living/ dining rooms. There would also be a noticeable change in the daylight distribution within the rooms themselves. Although the balconies would account for some of the loss of light, the main effect would be from the proposed building. However, in this case, having regard to the context, it is reasonable and appropriate to adopt **the "mid-teens" approach in respect of VSC**. Most windows would reach VSC levels of 17.5% and all windows would reach VSC levels of 15%. In terms of daylight distribution, even taking account of the balconies, most rooms in the relevant apartments would be subject to a noticeable difference. However, that is in large part due to the depth of the rooms.
75. With regards to sunlight the majority of the rooms in question would meet the recommended values both generally and also in winter. The BRE Guidance indicates that bedrooms and kitchens are of less importance than living rooms. Overall, it seems to me that the sunlight levels would be acceptable in this case. For the above reasons, I consider that the appeal scheme would not unacceptably harm the living conditions of the residents living in the Winchester Apartments by reason of diminution of sunlight and daylight.

Overbearing impact

76. There is no doubt that the apartments facing towards the appeal site would experience a change in outlook. Due to the height of the proposed building across the width of the plot the view from the windows and balconies would significantly change. However, Winchester Apartments stands relatively well back from the road frontage along William Road. In a central London urban environment where sites are required to make best use of the land resource a balanced consideration is required. In my opinion the new and existing building facades would be sufficiently well spaced to ensure that there would be no unacceptable overbearing or oppressive impact that would detract from the outlook or amenity of residents living in the Winchester Apartments.

17-33 William Street Apartments

Sunlight and daylight

77. These dwellings are above the proposed affordable workspace in Building B. Following development, Building A and Building B would be contiguous at ground floor level. Above that, Building A would adjoin its neighbour at the front but then step back away from the boundary. The proposed eastern elevation of Building A would be about 2m further away from the boundary than the existing office building. There are a series of steps so that the upper levels at the rear of the existing residential part of Building B are progressively further way from the boundary.
78. Relatively few of the windows at the back of the residential part of Building B

achieve VSC values of 27% at the moment. Following development, 8 west facing windows would have a reduction of greater than 20%. Five of these have recessed balconies and the amount of daylight they receive is very low. The change as a result of the development would be relatively small but proportionately large, which would result in the aforementioned effect. If the recessed balconies are discounted the VSC level would be well within the VSC target, which indicates that it is the balconies that would be responsible rather than the proposed building. Two of the windows have a roof overhang. Again, if this is discounted the VSC levels would be well within target values. The other window serves a living/ dining room, but existing levels are very low and with the development in place there would be a small further reduction. Absolute levels would therefore remain low, but the proportionate reduction would be 24.3% which slightly exceeds the 20% recommended target.

79. The proportionate changes to NSL would be well within the recommended levels in the BRE Guidance. There would only be one window where the change in sunlight levels would be below 20%. In that case it is the roof overhang that would be responsible rather than the proposed building.

Privacy

80. Within the western elevation of the residential part of Building B, there are angled balconies at two of the stepped corners that face south-west and windows facing south. There are also windows in the western elevation of an extension to Shafer House although from my observations these are some distance to the south and unlikely to be affected². The eastern side of Building A would be about 8.3m away from the nearest corner balcony and in excess of 11m from the nearest window. Although Building A has been vacant for some years, when it was in use there were office windows in closer proximity than those now proposed.
81. I appreciate that the existing amenity areas are valued by those occupying the apartments and that there would be more windows facing towards them. I also acknowledge that the proposed windows would serve habitable accommodation. However, in an urban situation such as this where densities are relatively high, compromised levels of privacy are often to be expected. The distances between the existing and proposed developments are not unreasonable but it seems to me that the relationship with the nearest balconies would unduly diminish the enjoyment of these amenity spaces. This could be addressed by a planning condition requiring the relevant windows to be fitted with screening measures to mitigate the harm.

Conclusions

82. It is appreciated that there are other residential properties nearby, including The Combe, **which is one of the two residential towers on the Regent's Park Estate**. I acknowledge that due to the height of the proposed development there would be many more windows facing west towards the Combe, which also has balconies on this side. However, there would be a considerable distance between the existing and new development, which would be sufficient

² On the plan in Document 49 the windows in question are within the western elevation of the shaded building to the south of the appeal site and not as shown, which is actually the existing rooflight above the rear part of the ground floor space within Nos 17-33. This is clearly evident from the photograph where the windows are marked with red crosses.

to ensure that an unreasonable level of overlooking or loss of light would not occur. My attention was also drawn to the community centre on the western side of Stanhope Street, which has a playground at the back. Whilst new windows would face in this direction, this amenity space is already overlooked at closer quarters by a number of residential buildings, including Bucklebury House. In the circumstances I do not consider that there would be an adverse impact on privacy as a result of the appeal scheme.

83. For all of the above reasons I consider that there would be some reduction in daylight and sunlight to those living in Winchester Apartments, I am satisfied that this would not be unacceptably harmful bearing in mind the urban context and the configuration of the appeal site. I have also carefully considered the effect with regards to light and privacy on the adjoining William Road apartments but again I find that the impacts would be acceptable and in the case of the most proximate balconies, could be mitigated. I therefore conclude that the living conditions of nearby residents would not be unduly compromised. In this respect the proposed development would not conflict with Policy A1 in the Local Plan.

WHETHER THE PROPOSED DEVELOPMENT OFFERS AN ACCEPTABLE STANDARD OF ACCOMMODATION FOR THE STUDENT OCCUPIERS

84. At the request of the Appellant, I carried out an accompanied site visit to the recent student development at Chapter Old Street, 18 Paul Street. Whilst this is not a tall building, it accommodates a much larger number of students in studios and twodios. I was therefore able to see a similar type of accommodation to that being proposed and also the facilities that have been provided to support it, which again would be relatively similar.

Planning policy and guidance

85. Policy H15 in the London Plan seeks to ensure that local and strategic need for purpose-built student accommodation is addressed, subject to a number of provisions including adequate functional living space and layout. Policy H9 in the Local Plan seeks a supply of student housing that is available at costs that meet the needs of students. It includes a provision that there should be a range of layouts, including flats with shared facilities wherever practical and appropriate. The supporting text indicates that the range should include clustered study bedrooms with some shared facilities wherever this is practical and appropriate to ensure the student housing is available at competitive rates. The policy aims to deliver 160 additional places a year. The *Student Housing* CPG was adopted in 2019 to support policy H9.

Size of units

86. Many of the concerns of the Council relating to the quality and standard of the proposed accommodation seem to be derived from a misapprehension that policy D6 in the London Plan is applicable. In fact, as the supporting text makes clear, the standards in that policy refer to new self-contained dwellings. The proposed studios and twodios would not meet that description. The London Plan does not include space standards for student bedrooms. Policy H9 in the Local Plan indicates that there should be compliance with any relevant standards applicable to houses in multiple occupation. The *Student Housing* CPG sets out these standards and also a benchmark, which is higher and includes space for a desk, kitchen area and bathroom. The proposed student

units would exceed the overall benchmark, and many would be significantly larger.

Daylight

87. Some of the student units would face north and most would have a single aspect. However, the important consideration is whether they would receive sufficient daylight to be pleasant and welcoming spaces for the student to inhabit. The BRE Guidance now uses a new and more sophisticated methodology for assessing daylight provision in proposed dwellings, including student accommodation. Climate Based Daylight Modelling (CBDM) uses climatic data that is specific to the area in which the site is located. In this case, I consider that the appropriate target would be 150 lux for all study bedrooms. The BRE Guidance says that where a room has a shared use the highest target should apply. In this case the rooms would be used for studying as well as sleeping and the target value for living rooms rather than bedrooms should therefore be adopted.
88. The kitchens in both the studios and twodios would be poorly lit due to their position at the back of the units and they would rely on artificial lighting. The Council considered that in the case of the studios this floorspace should be included in the calculation and a 200 lux target value applied. I do not agree. The hobs would be in an area partly separated by the bathroom wall and the wall adjacent to the hob. Although there would be no dividing door the separation space would be little wider than the front door. To my mind this layout is not addressed in the BRE Guidance and is therefore a matter for judgement. I do not consider it reasonable to apply a 200 lux target to the whole unit solely on the basis of this small kitchenette area at the back.
89. The CBDM calculation shows that 85% of the rooms would comply with the BRE Guidance and it therefore follows that 15% would not. The Appellant made the point that the CBDM targets have no regard to context and in a densely developed urban environment a lower rate of compliance is not unusual. It is the units on the lower floors that would have lower levels of daylight and I note that in nearly all cases the desk areas would be close to the window and within a well-lit part of the room. Furthermore, the proposal would include a large amenity area on the 14th floor, which would have excellent daylight levels reaching 200 lux or above. Taking all of these factors into account, it seems to me that the student accommodation overall would enjoy very good levels of daylight and the lower level achieved in a relatively small proportion of the units would be acceptable in these circumstances.

Cluster flats

90. The purpose of providing cluster flats in terms of local policy and guidance appears to relate primarily **to affordability**. **The Council's evidence was that** they are also favoured because they engender sociability and reduce student isolation. Nevertheless, the *Student Housing* CPD makes clear that the concern with higher-end student accommodation is that students from less wealthy backgrounds cannot afford it. The promotion of cluster flats is therefore not to do with quality and any concern that such accommodation is of higher quality than the studios and twodios that are being proposed is not substantiated.
91. It seems to me that different types of accommodation have different advantages and that **there is not a "one size fits all"**. It is relevant to note that

the appeal scheme would provide the policy level of affordable housing, which would mean that 35% of the student units would be available at a lower cost. There would also be good opportunities for social interaction. The proposal includes a large amenity space on the 14th floor, including two external terraces, an amenity area on the ground floor, a small outside terrace and a gym and cinema room in the basement. The amenity provision per bedspace would be well in excess of the standard in the *Student Housing* CPG.

92. **The Council's reason for refusal is on the basis** that it considers the accommodation to be substandard. It is not on account of the absence of cluster flats, which as I have commented is not an accommodation type that is defined in terms of its quality. The Appellant has indicated that its preference for studios and twodios, of which there are a variety of types and sizes, has been informed through consultation with a leading student housing operator and its current assessment of market demand. I do not consider this unreasonable in the circumstances and nor do I believe it to be contrary to policy H9 in the Local Plan.

Laundry facilities

93. The proposal includes 4 washer/ dryer units on the 14th floor. The drawings show that this room would be wheelchair accessible. The Council objects to such facilities here on account of likely leakages and fire risk. I address the latter point below. As to leakages, **the Appellant's architect indicated that the space could be treated as a wet room.** Furthermore, I would expect these machines to be properly maintained and this could be controlled by a planning condition.
94. The position of the laundry next to the amenity area seems to me to be logical in that students would be able to socialise away from the laundry area whilst their clothes are washing or drying. The *Student Housing* CPG indicates that for 206 bedspaces there would be a requirement for 2.75 washer/ dryer units. The provision in this scheme exceeds this. The Council also raised the issue of noise and vibration from the units disturbing students in the rooms below. There is no evidence to support this assertion in terms of the noise or vibration that a modern washer/ dryer would actually make. Furthermore, the layout shows that the laundry room would be directly above a corridor and part of the bathroom and kitchen associated with a twodio unit. In any event, the internal noise environment of the individual units of accommodation would be controlled through a planning condition.
95. Whilst it is demonstrated that a wheelchair user could use the laundry room, there would be very limited space to do so. The machines would be stacked so it seems unlikely that the wheelchair user would be able to reach the top two machines. For this reason, I consider that a rethink is necessary. The Appellant would be willing to provide laundry facilities in the basement either in place of or in addition to the facilities on the 14th floor. This could be controlled by a planning condition, and I consider this later in my decision.

Conclusion

96. The GLA commented in its Stage 1 referral that the proposed accommodation would be to a very high standard and that the interior of the units would be well designed. I agree for the reasons I have given above and my visit to the Chapter Old Street student housing reinforced this conclusion. The proposed

development would be in accordance with policy H15 in the London Plan and policy H9 in the Local Plan. Insofar as the *Student Housing* CPG requires the inclusion of cluster flats, the proposal would not comply.

WHETHER THE OCCUPIERS OF THE PROPOSED DEVELOPMENT WOULD BE SUITABLY PROTECTED IN THE EVENT OF FIRE

97. Fire safety was not a reason for refusal. However, before the inquiry was due to open in February 2022, an objection was received from the London Fire Brigade (the LFB) on the grounds that the single stair approach was considered unsatisfactory and that the facilities would be insufficient to support the safe egress of disabled occupants. In May 2022 the Health and Safety Executive (the HSE), although not a statutory consultee for this application, also expressed concerns about the means of escape and fire service access. The Appellant subsequently sought to meet the concerns of these consultees through mainly internal amendments, most notably the insertion of a second stair core.
98. Expert written evidence on fire safety was submitted by both main parties. However, at the inquiry the Council decided not to call its expert to give oral evidence but rather to rely on its planning witness in this regard. I raised this with the Council and gave it the chance to reconsider its position. It declined to do so with the consequence that its expert evidence was unable to be properly scrutinised. This was not particularly helpful because the Council's planning witness had no technical expertise in terms of fire safety.

The Gateway Process

99. The issue of fire safety must be taken very seriously, especially in a tall building such as this. The disastrous fire that ravaged the 24 storey Grenfell Tower in 2017 resulted in a terrible loss of life, including many occupiers with disabilities. The Government introduced the Gateway system following the Grenfell Tower tragedy in order to ensure that fire safety issues are considered at critical stages of the development process. Gateway One applies at planning application stage to all planning applications submitted from 1 August 2021 for buildings of 18m and above. The requirement includes a Fire Statement specific to the proposal and provides information on fire safety matters as they relate to land-use planning. The HSE also became a statutory consultee at this time. It is to be noted that the appeal application was submitted before the relevant date. Nevertheless, a Fire Statement was submitted and the HSE was consulted on a discretionary basis. The latter is now content that all Gateway One concerns have been addressed.
100. Gateways Two and Three are further steps in the process. This new regulatory regime is controlled through the Building Safety Act 2022, and I was told that Gateways Two and Three are expected to come into operation later this year.

Relevant policy and guidance

101. The London Plan introduces a step-change to the way that fire safety is to be considered and involves a higher standard of fire safety than Gateway One. Policy D12 in the London Plan includes various provisions that seek to achieve the highest standards of fire safety for all building users. The policy also requires major development proposals to submit a Fire Statement produced by a suitably qualified assessor. Policy D5 requires development proposals to

achieve the highest standards of accessible and inclusive design. Amongst other things, it requires that development should be able to be entered, used and exited safely, easily and with dignity by everyone.

102. The Mayor has produced draft *Guidance on Fire Safety* (February 2022) that supports the aforementioned policies. The draft document expands on the various criteria that are set out in order to achieve the highest standards of fire safety and accessibility. Whilst this document has received many representations and is unlikely to be adopted for a while, there was no dispute that the *London Plan* policy goes beyond the current Building Regulations, which are currently under review.

Qualitative Design Review (QDR)

103. BS 9991:2015 *Fire safety in the design, management and use of residential buildings – Code of practice* contains recommendations and procedures for fire safety in buildings. However, the document indicates that in buildings exceeding 50m in height there may be different demands in terms of fire safety provisions. In such circumstances specific evaluation through a QDR is required to see whether the code of practice in BS 9991 is appropriate or whether a full fire engineered solution specific to the building is necessary. For buildings of a lower height it is a matter for consideration as to whether a QDR would be necessary.
104. The appeal building would be 41m high. The LFB in its February 2022 consultation commented that no QDR had been undertaken to see whether a single stair approach would be an appropriate design approach, particularly as the same stair would also link the upper floors to the basement. Whilst the LFB refer to other concerns in its letter of October 2022, which responds to the amended two stair design, there is no further mention of a need for a QDR. The HSE also does not raise the issue of a QDR being necessary either.
105. The Council's **expert** referred to the need for a QDR in his written response to the amended two stairway scheme. He said this was not a common building situation, but rather involved densely occupied, tall, purpose-built student accommodation with the main amenity space on the top floor. Conversely the **Appellant's expert did not consider that the proposal was unduly complex** or unusual in terms of fire safety. He gave a clear explanation as to why he considered a QDR would not be necessary in this case. This evidence was subject to oral scrutiny, whereas **the Council's expert written evidence was not**. In the circumstances, I consider that **the Appellant's evidence** it is to be preferred.

Inclusive design statement

106. The Council considered that the Appellant should have consulted with disabled groups. Whilst I agree that consultation is always a good thing in respect of any development proposal, it was not undertaken by the Appellant in this case. In view of its importance as an issue, I would have expected the Council to consult with disabled groups if it considered this would aid its consideration of the proposal. In this case there was that opportunity when I agreed to accept the amended plans showing a second stairway and required re-consultation to be undertaken. As far as I am aware no responses were received from disabled groups.

107. Policy D5 in the London Plan includes a provision that the Design and Access Statement should include an inclusive design statement. However, no revision was made to the Design and Access Statement to address the two-stair proposal. I would agree that there is some infringement of policy D5 in the London Plan, although the GLA has not commented that the lack of such a statement would be a reason to refuse planning permission. The issue of accessibility for those with disabilities was thoroughly discussed at the inquiry, and I consider it further below.

Whether the highest standards of fire safety for all users would be achieved

108. As part of the evidence to the inquiry, an Outline Fire Strategy (the OFS) was provided. Whilst the document does not specifically confirm compliance with policy D12 in the London Plan, the **Appellant's** technical expert indicated that in his view its provisions would do so. The lack of detail about the systems to be utilised and the management and maintenance procedures to be adopted was criticised by the Council.

109. The use of sprinklers for example is referred to in section 2 of the OFS. The **Appellant's technical expert explained** that this is a specialist area that requires detailed modelling and performance criteria and takes a long time to complete. I can therefore understand why detailed design of the sprinkler system would not be addressed until after planning permission had been granted. There is no evidence that a suitable system could not be achieved.

110. Similar reasoning is applicable to the full evacuation strategy, management procedures and maintenance provisions. Clearly these are important aspects to a successful fire strategy, **but the Appellant's fire expert explained that** such matters were normally provided after the grant of planning permission and secured by a planning condition. This is particularly the case here as it is not known at this stage who the building operator would be. There is no requirement in the London Plan that these matters cannot be properly controlled through planning conditions. Indeed, **the Mayor's draft *Guidance on Fire Safety*** indicates that further details can be elicited in this way.

111. Students may be living away from home for the first time and may be less aware of the risks that ensue from certain behaviours in terms of fire safety. This was a point made by the LFB in its letter of October 2022 when it was commenting on the OFS. However, as far as I am aware there is no policy or guidance that prevents students from occupying a tall building and this did **not seem to be the Council's case**. There may be instances where fire doors are propped open or the corridors used for storage, for example. However, this could happen in any high-rise building and is not unique to student occupation. The OFS indicates that a management structure would be provided and the evidence to the inquiry was that this would be on a 24-hour basis. The detailed on-site management strategy could be controlled through a planning condition.

112. It therefore seems to me that the important question is whether, in the event of fire, there would be a safe and satisfactory outcome for the occupiers and the firefighters. I can see no procedural reasons why this cannot be achieved, and I now consider some of the detailed issues discussed at the inquiry.

Smoke control

113. There would be a smoke protected wheelchair refuge on each residential floor to ensure that those waiting for an evacuation lift could make a dignified escape. All refuges would be reached by either a smoke vented corridor or lobby. The LFB had concerns about whether the refuge in the lift lobby would be kept clear of smoke ingress. **The Appellant's expert** was satisfied that the smoke control systems would be effective. However, his evidence indicated that there were other available options if it proved to be an issue following detailed assessment.
114. On the 14th floor where the main amenity space would be situated, there would be three refuges in either the stair enclosure or the lift lobby. The Council rightly pointed out that the refuge in the stair enclosure would have no direct route to the evacuation lift. Two alternative solutions were suggested **by the Appellant's fire expert**, which would entail some small alterations to the internal layout. In this respect I agree with the Council that there are some shortcomings in the OFS but I have no reason to conclude that a satisfactory solution could not be achieved. This could be controlled through a planning condition.

Lifts and the evacuation strategy

115. The OFS indicates that the proposed building would have a high level of compartmentation and that a stay-put strategy would operate on the residential floors. This means that only those within the affected student flat would be evacuated in the first instance. This would not though stop others from evacuating if they wished to do so. This could be more likely in a student building where a higher use of social media and electronic communication would be anticipated. The OFS indicates that the strategy could be switched to a simultaneous evacuation if necessary. I was told that this would be the likely strategy to be put in place in respect of the 14th floor amenity area.
116. The proposed building would contain two stairways and two lifts. The evacuation lift would be for those who require a level access and exit or assistance during an emergency. I understand that the firefighters would expect to take control of one of the lifts and stairways on their arrival at the scene. The question arose as to whether one evacuation lift would be of sufficient capacity to safely evacuate those that needed it in the event of a simultaneous evacuation. Carrying down those unable to use the stairs is not a desirable arrangement because it neither engenders equality nor dignity.
117. There has been no specific capacity assessment because I was told that this is difficult to do with any accuracy at this stage. The proposed development would have 3 rooms for wheelchair users and a further 9 rooms that could be adapted for those with disabilities. There are also likely to be disabled visitors. It is proposed that Personal Emergency Evacuation Plans would be put in place for those that wish to have them and, as BS9991 makes clear, not all of those with disabilities would necessarily need to use a lift.
118. **The Appellant's fire expert** indicated that he worked on the basis that there would be 13 mobility impaired people who would need to use the lift, and this does not seem unreasonable. He commented that both lifts could be used for evacuation before the firefighters arrived and took over one as a firefighting

lift. In addition, there is no reason to assume that all who need to use the lift and refuges would do so at the same time. **The Appellant's fire expert** calculated that it would take about 86 seconds for the lift to travel from the 14th floor to ground level. The management strategy would set out how an ordered evacuation, whether simultaneous or stay put, would be organised. The **Appellant's fire expert** concluded that the lift capacity would be more than sufficient. This was from his experience and knowledge and represented the best available tested evidence.

Right angled windows

119. On each of the residential floors at levels one to seven there are windows serving study bedrooms that are at right angles to the windows serving the escape corridors. The HSE was concerned that the proximity and angle could allow the spread of a fire from within the flat into the escape route.
120. **The Appellant's fire expert explained that** the purpose of the sprinkler system was to suppress the fire so that the heat would be insufficient to spread. As a further measure the windows would not be openable and would be fitted with fire resistant glass. It was also explained that the openable side vents could also be fixed shut as they would not be required for ventilation purposes, but it was considered unlikely that such a measure would be necessary. The HSE was satisfied that its concerns had been addressed. In any event, this would be addressed in the full Fire Strategy required by a planning condition.

Laundry facilities

121. There was a great deal of time spent at the inquiry discussing the proposed laundry facilities on the 14th floor. This was not an issue raised by the HSE and it was not an issue raised by the LFB. It is the case that washing machines and tumble driers can catch fire, but this is often due to insufficient maintenance. In any event, the laundry room would be fitted with sprinklers and any fire would trigger the alarm, which would alert building management. These matters would be addressed in the full Fire Strategy required by a planning condition.

Room hobs

122. The hobs would be located adjacent to the door into the studio units and therefore would be on the escape route. The scenario of concern to the Council was if a fire started as a result of an unattended pan, for example. The OFS indicates that as well as a sprinkler system within the studio, there would be a fire suppression system above the hob itself. The induction hobs would disconnect from power once the alarm within the studio was activated. The OFS also includes calculations that indicate there would be sufficient space and time for the student to safely pass the pan fire into the safe space of the corridor.
123. The Council referred to the draft update to BS: 1991, which advocated a larger space between a hob and the escape route. However, this draft was only current until October 2021. Furthermore, I was told that there had been a high level of representation and that this was one of the issues on which there was most controversy. Having regard to the **Appellant's expert** evidence, I am satisfied that there would not be a fire safety issue in this respect.

Conclusions

124. There is local concern about the potential for fire appliances to block the entrance to the western section of William Road at the junction with Stanhope Street. I was told that this is the only access **to this part of the Regent's Park Estate** and serves about 200 dwellings, including The Combe. Obstruction at the junction could impede ambulances or other services getting into the estate in the event of an emergency. Whilst I understand the issue, this is an existing problem and could happen regardless of whether a redevelopment of the appeal site takes place or not. For example, it could arise if there was a fire at the Netley site or the Winchester Apartments. I was not told that a problem of this nature had occurred before, but in any event it is not a matter that the Appellant could reasonably be expected to resolve within the scope of this appeal.
125. For all of the above reasons, it is concluded that the occupiers of the proposed development would be suitably protected in the event of fire. The scheme would achieve the highest standards of fire safety for all building users and be in accordance with policy D12 in the London Plan. It would also allow those with disabilities to exit the building safely and with dignity and, in this respect, it would comply with policy D5 in the London Plan, although as I commented earlier there is some conflict with another provision of this policy.

PLANNING OBLIGATION BY UNILATERAL UNDERTAKING (the UU)

126. The Deed was considered in detail at the inquiry albeit that at that point it was to be a bilateral agreement as explained in paragraph 2 above. My consideration of what has now become the UU has taken the further representations by the main parties into account as well as the points made on the draft bilateral agreement at the inquiry.
127. I have considered the various obligations with regards to the statutory requirements in Regulation 122 of the Community Infrastructure Regulations (the CIL Regulations) and the policy tests in paragraph 57 of the Framework. It should be noted that the Deed contains a **"blue pencil" clause in the event** that I do not consider a particular obligation would be justified in these terms. In addition, there are clauses that allow me to amend relevant triggers or financial contributions if I consider that the latter do not comply with Regulation 122.
128. Policy DM1 in the Local Plan relates to delivery and monitoring. It includes a provision that planning contributions will be used where appropriate to support sustainable development, secure the infrastructure, facilities and services to meet the needs generated by development and mitigate its impact.
129. The triggers are defined as follows. Implementation is the carrying out of a material operation as defined in section 56 of the 1990 Act. This includes demolition. Commencement does not include preparatory work and demolition. Occupation relates to when any part of the development is first occupied.

The student accommodation

130. Before the development is occupied, the Affordable Student Accommodation

Plan is to be submitted to and approved by the Council. This Plan requires no less than 35% of the student bedrooms to be affordable at a rent set in **accordance with the Mayor's Housing Supplementary Planning Guidance**. The affordable accommodation is to be let in accordance with a Nominations Agreement with one or more of the Recognised Higher Education Establishments. These bodies are specified in the Fourth Schedule to the Deed and relate mainly to educational establishments within the Borough or proximate to it.

131. These various provisions are necessary to ensure the provision of a proportion of units that are affordable to less well-off students and to ensure that the accommodation is secured for students attending higher educational establishments in the locality. It accords with the provisions of policy H15 in the London Plan, which is the most up-to-date policy relating to purpose-built student accommodation.
132. There was considerable debate at the inquiry about whether students other than those in full time education should be allowed to occupy the premises. Clearly there will be some students who will be in occupation for the whole year, such as those pursuing postgraduate studies. However, many undergraduates will not wish to occupy their accommodation or pay for it during the long summer holiday. In such cases rather than leave the accommodation empty it seems reasonable to allow students undertaking short courses to occupy it during this time. In the Deed these are termed Other Students. Their course must entail 14 weeks or less in any year during June-September and be at one of the Recognised Higher Educational Establishments listed in the Fourth Schedule unless the Council agrees otherwise.
133. There does not seem to me to be any policy conflict with this provision. Policy H15 in the London Plan requires that the accommodation is secured for students following a course in higher education. The supporting text indicates that a legal agreement could be used to ensure that temporary uses, including short-term educational courses, will not disrupt the use by full-time students during the academic year. This is just what the current obligation achieves. Policy H9 in the Local Plan also does not appear to seek to prevent such occupation. In fact, the *Student Housing* CPG specifically raises the possibility of non-student occupation outside term time. That is not intended here.
134. The Deed contains covenants relating to how the student accommodation is to be occupied. This may be in the form of an individual tenancy, or a higher educational institution may make provision through a lease. A clause indicates that an individual room may not be disposed of as a separate self-contained **unit of accommodation without the Council's prior agreement**. Notwithstanding the Council's concerns about this covenant, it does not change the basic nature of the occupation as student housing.

The affordable workspace

135. Before the development is commenced the Affordable Workspace Plan and the Affordable Workspace Marketing Strategy is to be approved by the Council. The Plan will set out a package of measures for the provision and management of this workspace. The Strategy includes the measures for marketing to small and medium sized local enterprises on flexible terms. Following approval, the marketing is to be undertaken and the workspace

provided before the development is occupied. It is not however reasonable to prevent occupation of the student accommodation, as the Council proposes, until the affordable workspace has been fully occupied. The take-up by local business users is outside the control of the owner and a clause such as this could leave the student accommodation empty for a whole academic year.

136. This would not only be a poor use of the student accommodation resource, but I was told that it would make the whole project unlikely to be investible. The Council would have control of the marketing strategy through the approval mechanism and there are sufficient safeguards to ensure that the affordable workspace will be provided. There is a covenant that the affordable workspace will be available in perpetuity at a rent that is to be agreed with the Council but will always be 50% lower than market value.
137. The evidence indicates that there is a need for good quality affordable workspace for small and medium sized business uses. Within the Knowledge Quarter Innovation District, the draft *Site Allocations Local Plan* mentions the need for flexible and affordable workspace at discounted rents. The *Employment Sites and Business Premises* CPG indicates that where workspace has been specified as affordable it should be at 50% of comparable market values. The whole of the workspace is proposed to be affordable and the obligations are necessary to achieve this objective.

The construction works

138. The construction phase is defined as the whole period between implementation and the issue of a certificate of practical completion.

Construction Management Plan

139. Before the development is implemented the Construction Management Plan is to be submitted to and approved by the Council. The Plan will set out how construction will be undertaken safely and minimise impact on the surrounding environment and road network.
140. A construction project of this nature within an inner urban area will inevitably cause disruption, inconvenience and safety issues to the surrounding area, especially within an urban vicinity where there are residents living in close proximity. It is appreciated that one of the most frequent causes of complaint to the Council derives from construction activity. In such circumstances the Construction Management Plan is necessary in order to mitigate the harmful impacts as far as possible. The Plan will follow **the Council's Pro Forma** and Considerate Constructor Manual and is designed to reflect the specific needs of the Borough.
141. The Construction Management Plan Implementation Support Contribution of £28,520 is for the review and approval of the Plan and to verify its proper operation. The payment is to be made prior to implementation and the indicative charging rates are set out in the **Council's** Advice Note and based on the size of the development.
142. The Council objects to the omission from the Deed of a Construction Management Plan Bond of £30,000. This is intended to cover **the Council's** costs if there is a breach of the Construction Management Plan, and the Council has to take steps to remedy it. The *Developer Contributions* CPD indicates that such payments may be required if the development raises

particularly complex construction or management issues where the Council will have to allocate resources to monitor and support the delivery of obligations. I note that there is a substantial Monitoring Fee included in the Deed, which is considered below.

143. I appreciate that the Bond would be refunded at the completion of construction if it is not needed. However, in this case there is an obligation that specifically makes provision for remedy in the event of non-compliance with the Plan. The Appellant is not willing to pay the Bond and whilst it may be a more convenient remedy for the Council, I cannot conclude that it is necessary in this case to make the development acceptable.

Basement

144. Before the development is implemented the Basement Approval in Principle Application and the Basement in Principle Contribution is to be approved by and paid to the Council. The Application requires demonstration that there are sufficient basement loadings at all times during the construction period to ensure that the highway is not compromised. The Contribution of £1,800 is to be paid to cover the cost of assessment by the Highways Structural Team. These obligations are reasonable and necessary requirements in line with the provisions of policy T3 in the Local Plan and the *Transport* CPG, which seek to protect highway infrastructure. The contribution is based on the Chartered Engineer's time to review, understand, make comments and ultimately sign off the Application. I consider that it is a proportionate sum that would reflect officer time for a development of this scale.

Highways works

145. The Council objects to the failure to include a Highways Contribution of £63,675 to be paid prior to occupation. This would cover damage during construction such as repaving the carriageway, footway provision and any other works deemed necessary following development. The Council explained that the exact sum could not be finalised until the extent of the damage had been assessed post-construction. The Appellant wishes to secure these works through a Grampian style condition. Generally, the *Planning Practice Guidance* indicates that conditions should not require an applicant to enter into a Section 106 Agreement or an agreement under other powers, because it is unlikely to be enforceable.
146. However, in this case the condition has been suggested by the Appellant and the agreement would be with the Highway Authority who has, as far as I am aware, not raised any objections. In the circumstances, I do not believe that there would be issues with enforceability. The *Planning Practice Guidance* indicates that where it is possible to overcome objections through a planning condition this is preferable to a planning obligation. In the circumstances here I consider that the Highways Contribution is neither reasonable nor necessary and the requisite works can just as well be dealt with by condition.
147. There is a covenant that requires Level Plans to be submitted to the Council. This is reasonable in order to demonstrate that the levels at the interface of the development and the highway are satisfactory. I note that in the draft bilateral Agreement the Level Plans were intended to be included in the covenant relating to the Highways Contribution and included a trigger relating to commencement. I agree that this is a reasonable and necessary provision,

but in the UU the Level Plans are to be submitted prior to occupation and there is no provision that they should be approved by the Council or adhered to. Whilst I am permitted to change triggers under clause 7.8 of the Deed, there would also need to be a dispute resolution clause, as I explain below. In the circumstances, I do not consider that I have the power to make the necessary changes. However, I am satisfied that the matter could be dealt with satisfactorily by a planning condition and I deal with this below.

Sustainability

148. Before the development is occupied the Carbon Offset Contribution of £221,945 is to be paid. This is necessary to comply with policy S1 2 in the London Plan which requires major development to be net zero-carbon. The financial contribution **would contribute towards the Council's Carbon Offset Fund**, which is used to deliver carbon reduction measures within the Borough. This is worked out based on the **scheme's** shortfall and a carbon price based on the GLA recommended price of £95 per tonne.
149. The trigger for payment is prior to occupation, which is reasonable as the zero-carbon target relates to operational emissions. Whilst it is possible that a project may remain part built and thus not be liable to pay, this seems to me a very unlikely scenario with a major development such as this. The contribution is worked out by applying the **GLA's current recommended price** for carbon over a 30 year period.
150. Before the development is commenced the Energy Efficiency and Renewable Energy Plan is to be submitted to and approved by the Council. This sets out a package of measures to reduce carbon energy emissions as set out in the Energy and Sustainability Statement submitted with the application. It will achieve a 61.9% reduction in carbon emissions beyond Building Regulations Approved Document Part L. Measures are required to achieve at least 46.2% reduction in carbon emissions through low and zero carbon technologies. Before the development is occupied a post-completion review is to be submitted to the Council to confirm that the measures in the approved Plan have been incorporated. Thereafter occupation is subject to the development being managed in accordance with the provisions of the Plan.
151. Before the development is commenced the Sustainability Plan is to be submitted to and approved by the Council. This shows the sustainability measures to be carried out in the building fabric and through subsequent management and occupation. It refers to meeting the target set out in the Energy and Sustainability Statement submitted with the application, a BREEAM review and a post construction review, amongst other things. All of these measures are necessary in order to achieve a sustainable development and comply with strategic planning policy.

Employment and training

152. Before the development is implemented the Employment and Training Plan is to be submitted to and approved by the Council. This will include a package of measures that will maximise the opportunities for employment within the development during both its construction and operative phases.
153. Before the development is occupied the Employment and Training Contribution of £48,171.90 is to be paid to the Council. This has been

calculated in accordance with the formula in the *Employment Sites and Business Premises* CPG. The trigger for payment is occupation and this seems reasonable as the purpose is to promote employment and training opportunities for local people and may include provision of affordable employment space in the Borough. The Plan and Contribution will help mitigate the loss of employment space.

154. The owner is required **to work in partnership with the King's Cross** Construction Centre to foster local employment opportunities during the construction and operative phases of the development. This includes providing 12 apprentices and 7 work placements during the construction phase. Prior to implementation the Construction Apprentice Support Contribution of £1,700 per apprentice is to be paid to the Council for support and training. If apprentices cannot be provided the Construction Apprentice Default Contribution of £20,000 per apprentice is payable to the Council prior to occupation of the scheme. After occupation at least one end-use apprentice shall be employed for at least a year and the terms for that are set out.
155. Before the development is implemented the Local Procurement Programme is to be submitted to the Council for approval. This will indicate how opportunities for local businesses to provide goods and services throughout the construction period will be provided.
156. Policies E1 and E2 in the Local Plan seeks to foster a strong and diverse local economy, which includes local training and job opportunities to address the skills gap in the Borough resulting in difficulty for local people to benefit from available job opportunities. This is supported by the measures outlined in the *Employment Sites and Business Premises* CPG. They provide the justification for the obligations and the basis for the financial contributions, which are necessary for this reason.

Management of the development

157. Before the development is commenced a Service Management Plan is to be submitted and this is to be approved by the Council before the development is occupied. The Plan sets out a package of measures for the delivery and servicing of the development, which are necessary to minimise conflict with pedestrians and highway users and damage to local amenity as set out in planning policy and the *Transport* CPG.
158. Before the development is commenced a Student Management Plan is to be submitted and this is to be approved by the Council before the development is occupied. The Plan sets out a package of measures that reflect the *Student Housing* CPG. It includes how behavioural issues are to be addressed, how students will be encouraged to recycle and the way in which the uptake of wheelchair accessible units will be encouraged. These provisions are needed to ensure that the scheme integrates successfully with its surroundings and provides a diverse and inclusive environment for all students.

Accessibility

159. The student accommodation and the affordable workspace is to be car free. Each occupier will be informed that they are not entitled to a residents' parking permit or a contracted space in a Council car park. This does not

apply to holders of a disabled person's badge. The Council is to be notified of the residential and commercial units to which the restrictions apply.

160. The Pedestrian Cycling and Environmental Contribution of £239,000 is to be paid to the Council prior to occupation. It is to be used for various local pedestrian, cycle and public realm improvements that are being undertaken in the vicinity of the site. The contribution will be used to help fund four schemes **that were identified in the Council's evidence**. These are necessary to encourage walking and cycling within this highly accessible location in line with planning policy at all levels and the provisions of the *Transport CPG*. The need for the improvements will not arise until the building is occupied and for that reason it is not necessary or reasonable to require payment prior to implementation which could be significantly earlier in a project of this scale.
161. Before the development is occupied Travel Plans for both the student accommodation and the affordable workspace are to be submitted to and approved by the Council. The provisions for both are similar and the elements are set out in the Third Schedule to the Deed. It includes mechanisms for monitoring and review up to year 5 and the appointment of a Travel Plan Co-ordinator.
162. The Travel Plan Monitoring and Measures Contribution of £4,925 is to be paid to the Council for each use prior to occupation. These sums cover advice on the draft Travel Plans, and sustainable travel measures. The Council has produced an advice note on how the contributions are worked out based on a standard hourly rate for officer time over the review period. This seems reasonable and proportionate.

Architect retention

163. The Architect retention clause requires that all further drawings and project management is undertaken by the Architect. The definition includes the Architect appointed by the owner unless the Council agrees otherwise. Prior to occupation, the Architect is required to certify in writing that the development has been carried out in accordance with the planning permission and its conditions. The objective, with which I agree, is to ensure that the quality of the proposal is maintained and that what is built lives up to this expectation. Policy D4 in the London Plan seeks to deliver good design. In order to maintain this throughout the build project it advocates consideration of the ongoing involvement of the original architectural design team through to completion.

Public Open Space

164. Whilst the proposal includes on-site amenity space it does not provide any public open space. The Public Open Space Contribution of £310,350 is for this purpose either to improve maintenance and upkeep of existing public spaces or else to contribute towards providing more such space in the vicinity. The Council has indicated that the contribution will be used towards the creation of pocket parks and rain gardens on either William Road or Drummond Street and enhancement of the Everton Mews linear green space. This seems to me to be appropriate and necessary.
165. The contribution is to be paid prior to occupation, which is when the impact would occur. Policy A2 in the Local Plan includes a provision that the impact of

development on public open space can be mitigated through planning obligations. The *Public Open Space* CPG sets out the formula for calculation, which is adjusted for student occupation and includes the overall floorspace of the residential accommodation. I am satisfied that the contribution is reasonable and necessary in order to mitigate the effect of the new occupiers on existing open spaces.

Monitoring

166. A **contribution towards the Council's** monitoring costs of £9,724 is to be paid to the Council within 28 days of the grant of planning permission. The *Developer Contributions* CPG sets out the justification for such charges and how they are worked out. In this case there are 17 obligations to be monitored, and the Deed is relatively complex. I am satisfied that the monitoring fee is reasonable and necessary to cover the matters set out in the CPG.

Other matters

Triggers

167. Generally, the Council wishes to see payment of the financial contributions before the development is implemented. However, in the case of a major development such as this, the construction period is likely to be relatively extensive. The CIL Regulations require that the Regulation 122 tests should be considered in respect of each obligation. A trigger that is reasonable and necessary in some cases will not be in others. There is no policy support for **the Council's** unnuanced approach. Although the *Developer Contributions* CPG indicates such a default position it also says that an alternative arrangement may be specified in the legal agreement if it is justified by the particular characteristics of the development or obligation. This is the case here for the reasons I have given.

168. The Council has indicated that there are few sites that do not come forward because contributions are required to be paid on implementation. That may be so but does not necessarily mean that such triggers are always reasonable. The payment of the contribution before development is implemented does not mean that the project is any more likely to be completed. All it means is that the Council would have a sum of money in its possession to mitigate impacts that may not yet have occurred. To my mind this is unnecessary.

Deemed approval provisions

169. The Council objects to these provisions, which essentially provide a period of time for the Council to request amendments to the various obligations to which the deeming clauses apply. The period itself is 20 working days in the first instance and then 15 working days each time that amendments are submitted until approval is given. The Council indicates that it has a strong record of dealing promptly with such matters and in such circumstances, it is difficult to understand why it is complaining about the timescales. They seem to me to be reasonable and in any event the Council has suggested no alternative.

170. I have no doubt that the Council, as a publicly accountable authority, would act in a reasonable and responsible manner. However, in a unilateral Deed an open-ended period for decision-making is inappropriate. That is because in

such a situation the Council is not bound by the provisions of the Deed and therefore cannot be obliged to do anything. If it chooses that option, which seems to me most unlikely, it is necessary to include a default provision otherwise there would be an impasse. I heard nothing that satisfied me that this approach is other than legally sound and necessary, and the Council has provided no satisfactory evidence to the contrary.

Dispute resolution

171. The Council objects to these provisions. However, it is wrong to say that it would be bound by their terms. As indicated above, the Council cannot be made to agree to any obligation within a unilateral Deed. In the alternative it can choose to do nothing, and the deemed approval provisions will then apply. However, it has the option to agree to dispute resolution in accordance with the provisions in Clause 6 of the Deed. As a responsible public authority, I find it difficult to envisage that it would not do so within the 15 day time period, which seems reasonable in the absence of the Council suggesting any alternative. In such circumstances the owner also covenants to be bound by the terms of the dispute resolution. I note that the same dispute procedure was included in the draft bilateral Agreement, and the Council did not appear to have a problem with it.

Boilerplate clauses

172. **The Council's point here** seems to be that certain clauses have been removed which it would like to see included. There is no suggestion that their omission makes the Deed defective or unenforceable. Two of the disputed clauses have been re-inserted but I consider that there is little substance in the points the Council has made regarding the others. The reasoning provided by the Appellant about why they would not be necessary to make the development acceptable is to be preferred.

Overall conclusions

173. There are a number of reasons for refusal that specifically relate to the absence of a legal agreement. I am satisfied, for the reasons that I have given, that the UU satisfactorily addresses most of these objections. There are two matters where this is not the case. The first relates to the requirement for a Construction Management Plan Bond. However, for the reasons I have given I consider that this is unnecessary in this case. The second is the requirement for a highway contribution and Level Plans, which can be dealt with through planning conditions.

174. The Council has levelled a great deal of criticism at the UU, which I have sought to address above. I am satisfied that the obligations meet Regulation 122 of the CIL Regulations and can be taken into account in my decision.

PLANNING CONDITIONS

175. A list of planning conditions was drawn up by the main parties and these were discussed at the inquiry. My consideration has taken account of paragraph 56 of the Framework and advice in the *Planning Practice Guidance*. I have had **regard to the Government's intention that planning conditions should be kept to a minimum and that pre-commencement conditions should be avoided unless there is clear justification**. The detailed wording has been changed in some cases so that the conditions are precise, focused and enforceable.

Implementation

176. The statutory implementation period has been imposed and the approved plans specified for the avoidance of doubt and in the interests of proper planning. (Conditions 1 and 2).

Affordable workspace

177. For the reasons I have given, the provision of good quality affordable workspace on the ground floor of 17-33 William Road is a benefit of the scheme. There is therefore justification for preventing its loss to other uses through the scope of permitted development. (Condition 3).

Effect on existing residential occupiers

178. There are several conditions that are necessary in order to protect the amenities of existing residents, especially those living in the flats at 17-33 William Road. Restrictions on servicing, are required in order to prevent undue inconvenience or disturbance during unsocial hours. Privacy measures are necessary in order to protect the enjoyment and amenity of the nearest balconies to the proposed development. This allows some flexibility in order to choose suitable screening that also maintains a reasonable outlook for new occupiers. I have re-worded the condition to make it focused to the area of concern (Conditions 4 and 10).

179. In order to prevent unreasonable levels of noise and vibration from plant and machinery associated with the new development, relevant controls are required to be put in place. Student units on the first to fifth floors would adjoin the front part of the aforementioned flats in 17-33 William Road. In order to ensure that the existing habitable space is adequately protected from noise, enhanced sound insulation is required. In order to ensure that those living nearby are not unduly impacted by the waste generated by the proposed development, it is necessary to ensure that satisfactory arrangements are in place for its storage and removal. (Conditions 11, 12, 15 and 18).

180. There was concern by those living in the flats at 17-33 William Road about the proposed relocation of their waste storage area. This is presently within a secured area at the side of the building. The proposal shows it relocated to a new store at the front of the building immediately below residential windows. Residents were concerned about smell and vermin emanating from this area and impacting on the enjoyment of their habitable space. They were also concerned about the possibility of vandalism and arson due to the on-street access. I have sympathy with these concerns, which to my mind could be easily overcome as was evident from further information provided by the Appellant to the inquiry. A condition is therefore justified for the matter to be re-considered and a revised scheme to be submitted. (Condition 36).

The basement

181. The proposal would include a basement. An impact assessment has been submitted and this indicates that the existing walls would be retained, and that the basement would be no deeper than the existing. A condition is required to ensure the provisions of this assessment are implemented. A condition is also necessary to require that these specialised works are supervised by a suitable qualified engineer. The site is not within a Radon

Affected Area and whilst I note that the **Council's Environmental Health Officer** has some concerns about potential exposure there is no evidence given to support this. In such circumstances I cannot conclude that the condition relating to this matter is necessary or reasonable. (Conditions 5, 6).

Design and appearance

182. One of the justifications for permitting a tall building in this locality relates to the quality of the design. A great deal will depend on the attention to detailing and for this reason there are several conditions that require further specification, including the erection of sample panels on-site as well as details of windows, ground floor facades, balconies and the like. Paraphernalia such as meter boxes, aerials and satellite dishes can result in unattractive clutter and is not appropriate on the external facades. I have removed reference to lights as this matter is dealt with through the lighting strategy. Good quality hard and soft landscaping will enhance the development and appropriate planting schemes can have a beneficial effect on the wellbeing of the occupiers. Details of these measures and provisions for their maintenance during the first 5 years are necessary to the success of the scheme. (Conditions 7-9, 29 and 30).

Noise

183. The Environmental Noise Assessment indicates that traffic noise was the dominant source, which is hardly surprising bearing in mind the central London location of the appeal site. In order to ensure the quality of the student accommodation it is necessary to ensure that the noise environment within the student units is such that the accommodation is conducive to sleeping and quiet study. The noise levels are to be in accordance with BS 8233:2014 *Guidance on sound insulation and noise reduction for buildings* and the WHO *Guidelines for community noise*. (Conditions 13 and 14).

Accessibility and Highway safety

184. Policy T1 in the Local Plan seeks to promote a safe and accessible environment for cyclists, amongst other things. The cycle parking to be provided in the basement of Building A would meet this objective and also comply with the cycle parking standards set out in the London Plan (Condition 16).

185. In order to ensure the safety of pedestrians using the footway adjoining the new development, it is necessary that external doors, apart from fire doors, do not open outwards. (Condition 17).

Energy and sustainability

186. There are several conditions relating to energy and sustainability. These address policy S1 2 in the London Plan, which requires major development to comply with the net zero-carbon target by following the energy hierarchy and maximising on-site carbon reductions. **The Mayor's Energy Assessment Guidance** includes **how to comply with the "Be Seen"** requirement in the policy, which requires post-construction monitoring, verification and reporting **of the development's** energy performance. The wording of the condition reflects the steps required to comply with this part of the policy. Policy S1 2 also requires proposals to calculate whole life-cycle carbon emissions and show how life-cycle carbon emissions will be reduced. Again, the *Energy*

Assessment Guidance shows how this should be done and this is reflected in the wording of the conditions. (Conditions 19-22).

187. Policy CC3 in the Local Plan seeks to ensure that proposals do not increase flood risk and reduce it where possible. It includes a provision that development should incorporate water efficiency measures. The supporting text indicates that the daily water consumption in residential developments should not exceed 110 litres per person. This is a necessary restriction because it is only an optional requirement in the Building Regulations. Policies CC2 and CC3 include provisions relating to sustainable drainage and reducing surface water runoff. Details of the sustainable drainage system and also provision for water recycling are required in order to satisfy the policy objectives and achieve a sustainable outcome. Whilst I expressed some concern about the wording of the sustainable drainage condition, I am satisfied that the detailed content is reasonable in the interests of clarity. (Conditions 23-25).
188. The desktop study in the Energy and Sustainability Statement indicates that there is the potential to use photovoltaic panels. However, I do not consider that a condition is necessary because the package of carbon reduction measures will be addressed through the Energy Efficiency and Renewable Energy Plan in the UU. The Council has control over this because the Deed include provisions for it to approve the Plan. Whether or not photovoltaic panels require a separate planning permission is not a relevant matter in determining whether the condition is necessary or not.
189. Policy S1 1 in the London Plan seeks to improve air quality. It includes a provision that development proposals should be at least neutral in terms of air quality. Further guidance is provided in **the Mayor of London's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance**. Policy CC4 in the Local Plan also seeks to ensure that the effect of development on air quality is mitigated. It is therefore necessary to require monitoring before and during construction. An assessment of air quality is thereafter required prior to occupation and mitigation measures put in place as necessary. Non-road mobile machinery, used in connection with the construction of the development are to meet the minimum emission requirements set out in **the Mayor's guidance**. The UU includes a Construction Management Plan, but I do not consider that its provisions duplicate the requirements of these conditions (Conditions 26-28).

Security and lighting

190. In order to ensure the security of the new occupiers and in the interests of crime prevention a CCTV system is necessary. Lighting is also important to keep people safe, but it needs to be controlled to ensure that light spill does not cause unwanted effects on nearby residential properties and that it does not detract from the quality of the building design itself. Consideration needs also to be given to ecological effects, especially as bird and bat boxes are proposed in order to boost the biodiversity credentials of the site and in accordance with policy G6 in the London Plan and policy A3 in the Local Plan. (Conditions 31-33).

Adaptability and wheelchair use

191. Policy H6 in the Local Plan addresses housing choice and mix. It requires 10%

of new self-contained homes to be suitable for wheelchair users or adaptable for such use. However, the supporting text indicates that this optional Building Regulations requirement does not apply to student housing. This is reiterated in the *Student Housing* CPG, which indicates that there is no policy target either in the London Plan or the Local Plan. It indicates that the Building Regulations include a requirement for at least 5% of hotel bedrooms to be wheelchair accessible and it indicates that purpose-built student accommodation should be treated in the same way.

192. This seems to have been adopted by the CPG, which indicates that a higher proportion would be encouraged if the student housing were to be let out to non-student visitors outside term-time. As this is not the intention it is difficult to justify a higher proportion than the 5% proposed in the condition. (Condition 34).

Laundry

193. A great deal of time was spent at the inquiry discussing the laundry provision. A condition was suggested that the issue be subject to a planning condition requiring at least 8 machines, that they should be sited in a part of the building that would not cause a risk to fire safety and that it should be demonstrated that the facilities would be wheelchair accessible. For the reasons I have already given, I am satisfied in terms of the provision and the issue of fire safety. However, I have concerns about the accessibility of the machines to wheelchair users and their proper future maintenance. In the circumstances I have adjusted the wording of the condition to focus solely on these points. (Condition 35).

Fire safety

194. For the reasons that I have already given, a detailed Fire Strategy is required. There was no dispute that it will be critical to ensure that all elements of the strategy to manage fire risk will be properly maintained and kept in good working order at all times. It is also of the utmost importance that an appropriate management structure is put in place that ensures the safety of the student occupiers at all times. These provisions are necessary to ensure a safe and successful development. (Condition 37).

Construction

195. For the reasons given in paragraph 146 above, the necessary works to the public highway can be dealt with through a planning condition. I have added a provision regarding the planting of street trees, which are included within the proposal as a measure to improve the public realm. However, these are subject to there being satisfactory growing conditions and no issues regarding the safety of pedestrians or road users, which will only become clear following investigation. The provision is therefore worded accordingly. For the reasons given in paragraph 147 above, it is necessary to require Level Plans to be submitted and approved, subject to appropriate triggers (Conditions 38 and 39).

Viability

196. **The Council's reasoning is that** the various benefits such as the 35% affordable housing, the affordable workspace, the public realm improvements and the two stair cores will fall away because the scheme is inherently

unviable. No viability assessment has been submitted to show that this is the case. Even if it were, that does not mean that the scheme as permitted would not go ahead. Much will depend on the **developer's** approach to risk and the period of time over which a return on investment is anticipated. It is noted that the *Planning Practice Guidance* advises that where policy-compliant contributions are provided, decision makers should assume the scheme to be viable. Furthermore, the provision of a policy compliant level of affordable housing allows the application to follow a fast-track approach under policy H5 in the London Plan. In such circumstances a viability assessment is not required.

197. In any event, all of the matters that the Council is concerned about are either secured by covenants in the UU or planning conditions. I have carefully considered them and found them to be necessary for the development to go ahead. Any request to change or remove them would be fully within the **Council's control**, bearing in mind the relevant tests. The proposed viability condition includes provisions that duplicate matters that are already the subject of covenants or planning conditions. That leaves the pre-commencement condition requiring a financial viability appraisal to demonstrate that the scheme and its associated public benefits will be delivered. In the circumstances pertaining to the appeal proposal there is no such requirement in either national, strategic or local planning policy that would justify such a provision. I therefore conclude that the condition would be unreasonable and unnecessary.

CONCLUSIONS AND PLANNING BALANCE

198. It was agreed that the only heritage assets potentially affected by the proposed development would be the Grade II listed 48, 50 and 52 Stanhope Street. Following careful consideration, I have concluded that the appeal proposal would have no effect on their significance, notwithstanding that it would be within their setting. In addition, neither of the protected views **towards St Paul's Cathedral or the Palace of Westminster would be adversely affected**.
199. It was agreed that the Council has a 4.7 year supply of deliverable housing sites, which does not accord with the requirement in paragraph 74 of the Framework. In such circumstances policies affecting housing delivery in the Local Plan are out-of-date and the presumption in favour of sustainable development is engaged. In this case paragraph 11d) ii) of the Framework applies in view of my conclusion on heritage assets. This indicates that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against Framework policies taken as a whole.

Planning Benefits

200. The London Plan indicates that student housing will contribute towards overall housing supply at a ratio of 2.5 bedspaces to one dwelling. The development would therefore contribute 82 dwellings³ towards **the Council's housing land** supply. The Council has pointed out that policy H1 in the Local Plan establishes a priority housing need for self-contained housing and that this

³ This is on the basis of the 206 student units now proposed (206÷2.5=82.4).

has come about because of the considerable amount of student housing built in the Borough.

201. However, there is no evidence that the appeal site is either included within the existing supply of housing sites or that it is proposed to be allocated for self-contained housing. At present the draft *Local Plan Review* and the draft *Site Allocations Review* are at an early stage and can be given little weight. Furthermore, there is no evidence that there is an imbalance between self-contained housing and student accommodation or that the shortfall in self-contained housing is any more pressing than the need for student housing. Bearing these points in mind, the contribution towards reducing **the Borough's** housing deficit is a matter of substantial weight.
202. **The Council's annual** student accommodation target in policy H9 is a minimum of 160 units. However, this needs to be seen in the context of the more recent London-wide annual target of 3,500 student bedspaces, which has been established through the London Plan. It seems clear that some Boroughs will be better placed to contribute towards the strategic level of supply than others, and this includes Camden due to the location of many of the Higher Education establishments. The area around the appeal site is particularly well placed for student housing due to its proximity to such institutions as University College London, the London School of Economics and SOAS University of London.
203. The report prepared by Knight Frank, which specifically relates to the demand for purpose-built student accommodation, indicates that there is a considerable supply and demand imbalance within a 2.5 mile radius of the site and that this is forecast to get worse. The appeal scheme would provide high-quality student housing for the reasons I have given. In addition, it would include 35% affordable units for less well-off students. These are matters of very significant weight.
204. The existing building includes employment floorspace that is no longer fit for purpose. For the reasons I have given there is no reasonable prospect that the building would be refurbished for employment uses or redeveloped to provide employment floorspace. The proposal would include 1,255 m² good quality affordable workspace. This would be offered at 50% discount on comparable rents in the local market. The floorspace could be used flexibly and divided into small units if required. The evidence indicates that it would be a popular facility for small and medium sized business users locally. This is a benefit of significant weight.
205. The existing building is an unattractive feature in the streetscape with bland inactive frontages to the street and a poor relationship to its surroundings. By contrast, the proposed high-quality design would result in an attractive development that would enhance its local context, including the setting of the listed buildings. The building would also provide active façades to the adjoining street frontages. These are matters of significant weight.
206. The existing development makes an inefficient use of this central London site, which is within a location that enjoys the highest level of accessibility at PTAL 6. The proposed redevelopment would use the land to its optimal potential in accordance with national, strategic and local planning policy. This is a matter of significant weight.

207. There would be employment and training opportunities during the course of construction and some additional employment within the student accommodation. Those working and living in the building during its operative period would increase spending locally, which would contribute to the local economy. These are matters of limited weight.

Adverse impacts and tilted balance

208. I have found that the development would result in a noticeable loss of daylight in a number of the flats in Winchester Apartments. Three rooms would also experience small reductions in sunlight, below the recommended levels in the BRE Guidance. Whilst I have identified mitigating circumstances this would nonetheless result in some reduction in the residential amenity of these occupiers that should be taken into account.

209. A relatively small number of the student bedrooms would not comply with the BRE Guidance in terms of daylight levels. I have explained why I believe this would be acceptable in this case and concluded that the quality of the student housing would be high. Nevertheless, there would be a small adverse effect that should be taken into account.

210. The aforementioned adverse impacts are matters to which I give moderate weight. However, they would not significantly and demonstrably outweigh the very significant package of benefits when assessed against the policies in the Framework taken as a whole.

The development plan

211. There would be conflict with policy D5 in the London Plan in relation to Fire Safety because the requirement for an inclusive design statement in the Design and Access Statement is not provided. There would also be conflict with policy HCV4 in the London Plan because the proposed development would exceed the threshold height in the Landmark Viewing Corridor between Parliament Hill and the Palace of Westminster. Insofar as policy H9 in the Local Plan requires cluster flats or gives priority to self-contained housing, there would also be conflict.

212. However, the proposed development would be in accordance with a large number of policies in the London Plan and the Local Plan as I have identified when considering each of the main issues. In the circumstances I consider that it would comply with the development plan when taken as a whole. However, in the event that I am wrong, there are material considerations of sufficient weight and importance in this case to indicate that the decision should be made otherwise than in accordance with the development plan. Most important of these is the Framework and the exercise of the tilted balance, which has concluded that the adverse impacts would not significantly and demonstrably outweigh the benefits.

213. In my consideration of the development proposal, I have had due regard to the Public Sector Equality Duty set out under s149 of the *Equality Act 2010*. This is addressed in my reasoning, which takes account of the aims that seek to eliminate discrimination, advance opportunity and foster good relations. I am satisfied that my decision, and the conditions and obligations that form a part of it, would proactively promote equality for those with disabilities.

214. I have taken account of all other matters raised in the representations and at the inquiry, but I have found nothing to change my conclusion that the development would be acceptable and that the appeal should be allowed.

Christina Downes

INSPECTOR

ANNEX ONE: APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Ms Sasha Blackmore Mr Joseph Thomas	Counsel Counsel, both instructed by the Solicitor of the Council of the London Borough of Camden
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They called:

Mr A Jones MIRCS	Director of BPS Chartered Surveyors
Ms C Hatton BA(Hons) PG Cert	Conservation Officer with the Council of the London Borough of Camden
Ms L Scaletti MA BA(Hons)	Senior Design Officer with the Council of the London Borough of Camden
Mr C Harris BSc(Hons)	Partner of Delva Patman Redler LLP, Chartered Surveyors
Mr N Young BSc(Hons) MSc Licentiate member of the RTPI	Senior Planning Officer with the Council of the London Borough of Camden
*Mr J McClue BPlan(Hons)	Deputy Team Leader with the Council of the London Borough of Camden
**Ms E Shelton-Agar	Lawyer with Planning Legal Services, Council of the London Borough of Camden

FOR THE APPELLANT:

Mr Russell Harris Mr Andrew Byass	King's Counsel Counsel, both instructed by DP9 Limited
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They called:

Ms M MacLaren BSc DipArch ARB RIBA	Design Director of Morris+Company
Ms L Newman BA(Hons) DipArch ARB	Equity Director of the Tavernor Consultancy Limited
Mr J Stephenson FRICS MCIARB	Senior Director of Grant Mills Wood
Mr N Harvey BEng CEng MIFireE	Managing Director of Jensen Hughes
Mr P Fletcher BSc(Hons) MSc	Director of Point 2 Surveyors Ltd and Waterslade Ltd

Mr C Goddard BA(Hons) Board Director of DP9 Ltd
BPL MRTPI MRICS

*Mr O Sheppard Board Director of DP9 Ltd
BA(Hons) DipTP MRTPI

**Mr T Ivory Head of Planning, DLA Piper

*Participated in the planning conditions round table session

**Participated in the Planning Obligation round table session

INTERESTED PERSONS:

Mr S Spence	Local resident
Ms M Hayoukane	Local resident
Mr R Cansick	Local resident

ANNEX TWO: DOCUMENTS

- 1 Draft Supplementary Statement of Common Ground on Heritage (11.2.22), submitted by Ms Blackmore
- 2 Laundry Room Note produced by Mr Young
- 3 **Mr Timpson's supplementary proof of evidence and Appendix A**
- 4 Written representation by Mr T Meadows
- 5 Photographs produced by Mr Spence
- 6 London Plan Guidance on Fire Safety Policy D12(A), pre-consultation draft (March 2021), submitted by Ms Blackmore
- 7A London Plan Guidance Sheet, Policy D12(B): Fire Statements
- 7B London Plan Guidance Sheet, Policy D5(B5): Evacuation Lifts
- 8 Further CBDM calculations by Mr Fletcher
- 9 Written representation from G Ustun
- 10 Room schedule produced by Ms MacLaren
- 11 Response by Jensen Hughes to fire issues raised by HSE (6 July 2022), submitted by Ms Blackmore
- 12 **Email relating to the Council's attendance at the meeting with the HSE in July 2022**
- 13 Updated schedule of drawings
- 14 **Mr Fletcher's response to Inspector's questions on CBDM calculations**
- 15 Proposed student room types and schedule produced by Ms MacLaren
- 16 Potential laundry room provision at basement level, submitted by Mr Harris
- 17 Conservation Principles, Policies and Guidance – Historic England, submitted by Ms Blackmore
- 18 Tall Buildings Historic England Advice Note 4 (March 2022), submitted by Ms Blackmore
- 19 Pre- Application presentation on the scheme by the Appellant (May 2020)
- 20 Drawings of the Lantern House development, submitted by Mr Harris
- 21 EG article on the London Office Market (21/11/22), submitted by Mr Harris
- 22 **Mr Stephenson's viability appraisals comparison table**
- 23 The Town and Country Planning (Development Management Procedure and Section 62A Applications) (England) (Amendment) Order 2021, submitted by Ms Blackmore
- 24 Webpage of the consultation on the London Plan Guidance on Fire Safety (February-June 2022), submitted by Mr Harris
- 25 Draft London Plan Guidance on Fire Safety (February 2022), submitted by Mr Harris
- 26 **Council's email regarding re-consultation of the appeal proposal (28 September 2022)**
- 27 E-mail exchange between the Council and London Fire Brigade regarding the revisions to the appeal proposal, submitted by Ms Blackmore
- 28 **Council's CIL compliance note, submitted by Ms Blackmore**
- 29 Victoria House, Bloomsbury Square development strategy including requirements for lab enabled areas, submitted by Ms Blackmore

- 30 Ground floor drawings and elevation showing possible relocation of the bin store, produced by Ms MacLaren
- 31 Photographs and aerial view of the Francis Crick Centre, submitted by Ms Blackmore
- 32 BS 9991: 2015 draft update, relating particularly to cooking facilities, submitted by Ms Blackmore
- 33 **Council's** update note on the Annual Monitoring Report and Housing Trajectory
- 34 Committee report on 314-320 Acorn House, submitted by Mr Harris
- 35 **Council's letter** to the Appellant regarding outstanding documents for the inquiry (14 September 2022)
- 36 Photographs submitted by Ms M Hayoukane relating to the existing bin store
- 37 Correspondence and photographs from Ms M Hayoukane and Mr D Loke
- 38 Additional documentation on the Lantern development, submitted by Ms Blackmore
- 39A Ms **Hatton's response to HE Tall Buildings Guidance**
- 39B Ms **Newman's response to HE Tall Buildings Guidance**
- 40 Draft planning conditions with comments from the 2 main parties
- 41 Draft additional planning conditions with the comments from the 2 main parties
- 42 **Council's advice note on Construction Impact Bonds**
- 43 **Council's advice note on monitoring fees for Travel Plans**
- 44 **Council's advice note on Implementation Support Contribution**
- 45 Drawings showing potential arrangements for a 14th floor fire corridor and alternative locations for the bin stores serving 17-33 William Road levels, produced by Ms MacLaren
- 46 Email correspondence between the Council and the GLA regarding its draft fire safety guidance, submitted by Ms Blackmore
- 47 List of outstanding information, submitted by Ms Blackmore

Documents submitted after the close of the inquiry:

- 48 Authorities bundle submitted by the Council to accompany its closing submissions
- 49 **Mr Young's drawing and photographs showing** distances between existing and proposed development
- 50 Further correspondence from the Council and Appellant about conditions
- 51 Further information from the Council on the costings for the highway contribution and the implementation trigger
- 52 Public Open Space CPG
- 53 Site visit itinerary
- 54 Site location plan with land ownership titles
- 55 **Council's comments on the draft Unilateral Undertaking**
- 56 **Appellant's response to the Council's comments** on the draft Unilateral Undertaking
- 57 Unilateral Undertaking dated 30 January 2023

ANNEX THREE: SCHEDULE OF PLANNING CONDITIONS

1. The development hereby permitted shall be begun not later than three years from the date of this decision.
2. The development hereby permitted shall be carried out in accordance with the following approved plans: (these are not the correct plan numbers)

Site Location Plan - A295-MCO-XX-R0-DR-A-00001
Proposed Site Plan - A295-MCO-XX-R0-DR-A-00010_R02
Existing Basement Plan - A295-MCO-XX-B0-DR-A-00098
Existing Ground Floor Plan – Plot B - A295-MCO-XX-G0-DR-A-00099
Existing Ground Floor Plan – Plot A - A295-MCO-XX-G0-DR-A-00100
Existing First Floor Plan - A295-MCO-XX-01-DR-A-00101
Existing Level 02-05 Floor Plan - A295-MCO-XX-01-DR-A-00102
Existing North Elevation - A295-MCO-XX-ZZ-DR-A-00210
Existing West Elevation - A295-MCO-XX-ZZ-DR-A-00211
Existing South Elevation - A295-MCO-XX-ZZ-DR-A-00212
Existing East Elevation - A295-MCO-XX-ZZ-DR-A-00213
Proposed Basement Plan - A295-MCO-BA-B0-DR-A-01091_R02
Proposed Ground Floor Plan – Plot B - A295-MCO-BB-G0-DR-A-01099_R02
Proposed Ground Floor Plan – Plot A - A295-MCO-BA-G0-DR-A-01100_R02
Proposed Level 01-03 Floor Plan - A295-MCO-BA-01-DR-A-01101_R02
Proposed Level 04-05 Floor Plan - A295-MCO-BA-04-DR-A-01104_R02
Proposed Level 06-07 Floor Plan - A295-MCO-BA-06-DR-A-01106_R02
Proposed Level 08-13 Floor Plan - A295-MCO-BA-08-DR-A-01107_R02
Proposed Level 14 Floor Plan - A295-MCO-BA-14-DR-A-01114_R02
Proposed Roof Level Plan - A295-MCO-BA-15-DR-A-01115_R02
Proposed North Elevation - A295-MCO-XX-ZZ-DR-A-01210_R02
Proposed West Elevation - A295-MCO-XX-ZZ-DR-A-01211
Proposed South Elevation - A295-MCO-XX-ZZ-DR-A-01212
Proposed East Elevation - A295-MCO-XX-ZZ-DR-A-01213
Proposed Section AA - A295-MCO-XX-ZZ-DR-A-01301
Proposed Section BB - A295-MCO-XX-ZZ-DR-A-01302
Lower Levels Bay Elevations and Sections - A295-MCO-BA-ZZ-DR-A-21101
Upper Levels Bay Elevations and Sections - A295-MCO-BA-ZZ-DR-A-21102

3. Notwithstanding the provisions of the *Town and Country Planning (Use Classes) Order 2020* or the *Town and Country Planning (General Permitted Development) Order 2015* (or any orders revoking and re-enacting those orders with or without modification), the ground floor of Nos. 17-33 William Road shall only be used as affordable workspace space, under Class E (g(i-iii)), and for no other purposes.
4. All servicing shall take place in accordance with the approved Delivery and Servicing Management Plan dated November 2020 and shall not take place outside of the following times: 08:00-20:00 Monday-Saturday, and 09:00-20:00 Sunday and Bank and Public Holidays.

5. The development shall be carried out in accordance with the methodologies, flood mitigation measures and recommendations of the Basement Impact Assessment Ref: CG/38530 dated November 2020.
6. The basement works, including excavation, shall not commence until such time as a suitably qualified chartered engineer with membership of the appropriate professional body has been appointed to inspect, approve and monitor both the permanent and temporary basement construction works throughout their duration to ensure compliance with the design.
7. Prior to commencement of above ground works on the building, the following details shall be submitted to and approved in writing by the local planning authority:
 - a) Sections at 1:10 of all windows (including jambs, head and cill), ventilation grills and external doors and gates
 - b) Plans, elevations and sections of all ground floor facades at a scale of 1:10
 - c) Plans, elevations and sections of balustrading to terraces and balconies
 - d) Manufacturer's specification details and samples of all facing materials
 - e) Details of all plant equipment
 - f) Sections of typical walls at a scale of 1:20

The development shall be carried out in accordance with the approved details

8. Prior to the commencement of above ground works on the building, the following shall be erected on site (as appropriate), retained for the duration of the construction period, and approved in writing by the local planning authority:
 - a) Sample panels of facing materials, a minimum size of one metre square
 - b) Sample panels of a typical elevation, a minimum of two metres square, to include a glazed opening showing reveal and header detail and an elevation brickwork showing the colour, texture, face-bond and pointing

The development shall be carried out in accordance with the approved sample panels.

9. No meter boxes, flues, vents or pipes, and no telecommunications equipment, alarm boxes, television aerials or satellite dishes shall be fixed or installed on the external face of the building.
10. Details of screening measures to the first, second, third and fourth floor east facing side windows to the 4 two-dio units in closest proximity to the corner balconies on 17-33 William Road shall be submitted to and approved in writing by the local planning authority. The approved screening measures shall be carried out in accordance with the approved details prior to the occupation of those units and retained in place thereafter.

11. The external noise level emitted from plant, machinery or equipment at the development hereby permitted shall be lower than the typical background noise level by at least 10dBA and by 15dBA where the source is tonal, as assessed according to BS4142: 2014 at the nearest and/or most affected noise sensitive premises, with all machinery operating together at maximum capacity.
12. Prior to use, machinery, plant or equipment and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced. The measures shall be retained and maintained in accordance with the **manufacturer's instructions**.
13. The internal noise levels in the student flats hereby permitted shall not exceed an indoor ambient noise level of 35dB(A) LAeq, 16hour (07:00-23:00 hours) and 30dB(A) LAeq, 8hour (23:00-07:00 hours) and individual noise events shall not exceed 45dB L_{Amax} during the night (23:00-07:00 hours).
14. Prior to the residential occupation of the development, noise testing and an associated report to demonstrate compliance with the noise levels required by condition 13 shall be submitted to and approved in writing by the local planning authority.
15. Prior to commencement of the above ground works, details shall be submitted to and approved in writing by the local planning authority of an enhanced sound insulation value D_{nT,w} and L'_{nT,w} of at least 5dB above the *Building Regulations* value, for the floor/ceiling/wall structures separating the development hereby permitted and the existing residential units above nos. 17-33 William Road. The approved details shall be carried out prior to occupation of the development and thereafter permanently retained.
16. Prior to commencement of development (excluding demolition and site preparation works), full details of the 200 long-stay and 11 short-stay cycle parking facilities (which includes the re-provision of 12 cycle spaces for existing residents of 17-33 William Road) shall be submitted to and approved in writing by the local planning authority. The approved cycle parking facilities shall thereafter be provided in their entirety prior to the occupation of any part of the development and shall thereafter be retained.
17. All external doorways, except for fire doors or for access to utilities, shall not open outwards towards the public highway or footway. The proposed doors shall either open inwards or have a sliding door.
18. Prior to the commencement of development (excluding demolition and site preparation works), details of waste storage and removal for the student accommodation and affordable workspace shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details and the waste storage facilities shall thereafter be retained.
19. **In order to demonstrate compliance with the 'Be Seen' post-construction monitoring requirement of Policy SI 2 of the London Plan**, the legal owner

shall at all times and 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 shall, upon written notice from the local planning authority, immediately take all steps reasonably required to remedy non-compliance.

- a) Within four weeks of planning permission being issued by the local planning authority, the legal owner shall submit to the Greater London Authority (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 shall be submitted to the GLA's monitoring portal in **accordance with the 'Be Seen' energy monitoring guidance.**
- b) Once the as-built design has been completed (upon commencement of RIBA Stage 6) and prior to the building(s) being occupied (or handed over to a new legal owner, if applicable), the legal owner is required to **provide updated accurate and verified estimates of the 'Be Seen' energy performance indicators for each reportable unit of the development, as per the methodology outlined in Chapter 4 'As-built stage' of the GLA 'Be Seen' energy monitoring guidance. All data and supporting evidence shall be uploaded to the GLA's monitoring portal.** The owner shall 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 of occupation following the end of the defects liability period and for the following four years, the legal owner shall provide accurate and verified annual in-use energy performance data for all relevant indicators under each reportable unit of the **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 shall 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.**

20. Prior to the commencement of development, an updated Whole Life-Cycle Carbon (WLC) Assessment and GLA WLC Assessment template shall be submitted to and approved in writing by the local planning authority. The assessment shall include:

- a) All B1 emissions related to refrigerants
- b) Results for assessment 2 (decarbonisation of the grid) for modules B2-B5 and D
- c) Results for B6-7 shall be consistent with the Energy and Sustainability Statement prepared by Vitec and dated November 2020

The results shall meet or exceed the Aspirational WLC Benchmark in the GLA WLC Assessments Guidance.

21. Once the as-built design has been completed (upon commencement of RIBA Stage 6) and prior to the building(s) being occupied (or handed over to a new owner, if applicable), the legal owner(s) of the development shall submit the post-construction WLC Assessment to the GLA at: ZeroCarbonPlanning@london.gov.uk. The owner shall use the post **construction tab of the GLA's WLC Assessment template and this** shall be completed accurately and in its entirety in line with the criteria set out in the **GLA's WLC Assessment** Guidance.

The post-construction assessment shall provide an update of the information submitted in the WLC Assessment by XCO2 (6 January 2022), at planning submission stage (RIBA Stage 2/3), including the WLC carbon emission figures for all life-cycle modules based on the actual materials, products and systems used. The assessment shall be submitted along with any supporting evidence as per the guidance and shall be received three months post as-built design completion, unless otherwise agreed.

22. The development shall be carried out in accordance with the Circular Economy Statement by XCO2 (6 January 2022) to achieve at least 95% reuse/recycling/recovery of construction and demolition waste and 95% beneficial use of excavation waste.
23. The development hereby permitted shall achieve a maximum internal water use of 110 litres per person per day. Evidence demonstrating that this has been achieved shall be submitted to and approved in writing by the local planning authority prior to the occupation of the development.
24. Prior to the commencement of development other than site clearance & preparation, a feasibility assessment for rainwater/greywater recycling shall be submitted to and approved in writing by the local planning authority. If the approved assessment demonstrates that such recycling would be feasible details shall be submitted to and approved in writing by the local planning authority. The development shall thereafter be constructed in accordance with the approved details.
25. The sustainable drainage system and its future management and maintenance shall be carried out in accordance with the details in the Flood Risk Assessment, Drainage Strategy and SuDS Assessment by Iesis Group (Nov 2020) and the Flood Risk Addendum No.1 by Iesis Group (19th May 2021). Measures shall be installed as part of the development to accommodate all storms up to and including a 1: 100 year storm with a 40% provision for climate change, such that flooding does not occur in any part of a building or in any utility plant susceptible to water and to achieve greenfield run off rates. The system shall include rainwater harvesting (3m³), 74m² of green roofs and 351m² of blue roofs (providing 38m³ attenuation) plus 19m³ of attenuation tanks, as stated in the above documents and shall thereafter be retained and maintained in accordance with the approved maintenance plan.
26. Prior to the commencement of development at least 4 air quality monitors, the details of which have first been submitted to and approved in writing by

the local planning authority, have been installed. The details shall include the location, number and specification of the monitors, including evidence of the **fact that they will be installed in line with guidance outlined in the GLA's Control of Dust and Emissions during Construction and Demolition Supplementary Planning Guidance.**

The monitors shall be in place for at least 3 months prior to the implementation date. Evidence to demonstrate that this has been done shall be submitted prior to the commencement of development.

The monitors shall remain on site and be maintained in accordance with the **manufacturer's instructions for the duration of the development in** accordance with the details thus approved.

27. Prior to the occupation of development, an Air Quality Assessment shall be submitted to and approved in writing by the local planning authority. This shall include the current baseline situation in the vicinity of the proposed development. If required, a scheme for air pollution design solutions or mitigation measures and a timetable for their implementation based on the findings of the Air Quality Assessment shall be submitted to and approved in writing by the local planning authority before the development is first occupied. The approved design solutions or mitigation measures shall be carried out in accordance with the approved details and timetable and kept in place thereafter.
28. All non-road mobile machinery (NRMM) (any mobile machine, item of transportable industrial equipment, or vehicle - with or without bodywork) of net power between 37kW and 560kW used on the site for the entirety of the demolition and construction phase of the development shall be required to meet Stage IIIA of EU Directive 97/68/EC. The site shall be registered on the NRMM register for the demolition and construction phase of the development.
29. Prior to the commencement of above ground works, details of hard and soft landscaping and means of enclosure of all un-built, open areas and a timetable for implementation, shall be submitted to and approved in writing by the local planning authority. The details shall include any proposed earthworks including grading, mounding and other changes in ground levels. The development shall be carried out in accordance with the approved details and timetable.
30. Any trees or areas of planting 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 not later than the end of the following planting season, with others of similar size and species, unless the local planning authority gives written consent to any variation.
31. Details of the installation of CCTV shall be submitted to and approved in writing by the local planning authority. The approved details shall be carried out prior to the first occupation of the development. They shall be retained **thereafter and maintained in accordance with the manufacturer's instructions.**

32. Details of a lighting strategy, to include information about potential light spill on to buildings and trees, shall be submitted to and approved in writing by the local planning authority. The approved lighting strategy shall be carried out prior to the first occupation of the development. It shall be retained thereafter **and maintained in accordance with the manufacturer's instructions.**
33. Prior to first occupation of the development a plan showing details of bird and bat box locations and types and indication of species to be accommodated shall be submitted to and approved in writing by the local planning authority. The boxes shall be installed in accordance with the approved plan prior to the first occupation of the development and shall thereafter be retained.
34. No above ground works shall commence until details demonstrating that at least 5% of the residential units hereby permitted could be constructed to comply with Part M4(3) of the *Building Regulations*. Any communal areas and accesses serving the M4(3) compliant Wheelchair User Dwellings should also comply with Part M4(3). Evidence that all other residential units, communal areas and accesses hereby permitted could be constructed to comply with Part M4(2) of the Building Regulations shall also be submitted. The development shall not be carried out otherwise than in accordance with the details thus approved and shall be fully implemented before the premises are first occupied and retained as such thereafter.
35. Notwithstanding the details shown on the approved plans and prior to the commencement of development (excluding demolition and ground preparation works), details of the laundry room and its facilities, shall be submitted to and approved in writing by the local planning authority. The details shall demonstrate that the laundry room and its facilities will be accessible to wheelchair users and that the machines will be properly maintained in perpetuity. The approved details shall be carried out before the student accommodation is first occupied.
36. Notwithstanding the approved plans, details of a revised scheme for the refuse store for the existing occupiers of 17-33 William Road shall be submitted to and approved in writing by the local planning authority prior to the commencement of development (excluding demolition and ground preparation works). The refuse store shall be at least 16m² gross internal area and shall be provided before the development is first occupied and retained thereafter.
37. Prior to the commencement of development (excluding demolition and ground preparation works), fire safety details shall be submitted to and approved in writing by the local planning authority. The fire safety details shall include:
- a) A full Fire Strategy
 - b) A full Management and Maintenance Plan
- The fire safety details shall include the employment of PEEPS; measures for smoke control; details of the firefighting and evacuation lifts; details of refuge areas, corridors, doors, right angled windows and stair cores.

38. Prior to the commencement of development there shall be an agreement with the Local Highway Authority to secure the following works:

- a) The repaving of the carriageway adjacent to the site
- b) The provision of new footways along the eastern and western frontages of the building
- c) The planting of street trees as shown in the Design and Access Statement, subject to suitable growing conditions and acceptable conditions relating to the safety of pedestrians and road users
- d) Any other works that the Local Highway Authority acting reasonably considers necessary as a direct result of the development construction.

39. Prior to the commencement of development Level Plans shall be submitted to and approved in writing by the local planning authority to show the relationship of the existing and proposed levels of the site and the adjoining public highway. The development shall be carried out in accordance with the approved Level Plans.

End of 39 conditions

APPENDIX A.6 15-26 LINCOLN COTTAGES PROPOSED SCHEME DSO REPORT