



Appeal Decision

Site visit made on 9 August 2019

by Christopher Miell MPlan MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3rd December 2019

Appeal Ref: APP/E5900/W/19/3228094

Land Rear of No 129 Cadogan Terrace, London E9 5HP

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
 - The appeal is made by Mr R Tomkins (RCT Construction) against the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/18/03039, is dated 25 October 2018.
 - The development proposed is the erection of a new dwellinghouse.
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Decision

1. The appeal is allowed and planning permission is granted for the erection of a new dwellinghouse at Land Rear of No 129 Cadogan Terrace, London E9 5HP in accordance with the terms of the application Ref PA/18/3039, dated 25 October 2018, subject to the schedule of conditions attached to this decision.

Application for costs

2. An application for costs was made by Mr R Tomkins (RCT Construction) against the Council of the London Borough of Tower Hamlets. This application is the subject of a separate Decision.

Procedural Matters

3. The National Planning Policy Framework was revised in February 2019 (the Framework). I have taken the Framework into account as part of the determination of this appeal.
4. The Council have referred to several policies from the Tower Hamlets Draft Local Plan 2031: Managing Growth and Sharing the Benefits. In accordance with paragraph 48 of the Framework, weight may be given to policies within emerging plans. The weight given is determined by the stage of preparation of the emerging plan subject to the extent of unresolved objections and the degree of consistency of the relevant policies to the Framework. I have not been provided with any substantive details, in this regard, therefore, I can only afford limited weight to emerging policies.
5. The indicative fourth reason for refusal within the Council's Statement refers to Policy 6.12 of the London Plan (2016) (the 'LP'). However, I have been provided with no details relating to this policy and I note that the remainder of the Council's Statement refers to Policy 6.13 of the LP. As such, I am satisfied that this is a typographical error and I have dealt with the appeal on this basis.

Main Issues

6. The main issues are:

- whether the proposal would preserve or enhance the character or appearance of the Victoria Park Conservation Area;
- the effect of the development upon the living conditions of the occupiers of No 129 Cadogan Terrace, in respect of the provision of outdoor amenity space;
- the effect of the development upon the Site of Local Importance for Nature Conservation; and
- whether there are mechanisms in place to ensure that the proposal is a car free development.

Reasons

Conservation area

7. Section 72(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special attention to the desirability of preserving or enhancing the character or appearance of the Victoria Park Conservation Area (the 'CA').
8. The CA is characterised by the open space of Victoria Park itself and the wide, tree lined streets that sit adjacent to the park. In particular, the properties along Cadogan Terrace are of a uniform appearance and have long rear gardens, which support a vast number of mature trees and soft landscaping. The trees provide a screen between Cadogan Terrace and the adjoining A12 road and give the area a verdant character. These features add positively and distinctively to the significance of this part of the CA.
9. No 129 Cadogan Terrace is situated at the end of a row of terraced properties and adjoins the towpath to the Hertford Union Canal. The site has been recently redeveloped with a mixed-use development, which comprises of a public house and eight self-contained flats.
10. The appeal site is situated to the rear of the building and sits between the surviving elements of the disused and largely dismantled Mitford Bridge, which previously carried the North London Railway line over the Hertford Union Canal. The ground level of the land is partially raised, and it is predominately gravelled. The site is shown as a communal amenity space for occupiers of the flatted development on the approved plans¹ as part of the redevelopment of No 129. However, at the time of my site visit, this element of the scheme had not been constructed.
11. It is proposed to erect a two-bedroom, two storey dwellinghouse with a green roof at the appeal site. The dwelling would have a contemporary appearance and sit within an engineered metal frame in-between the two brick walls of the former Mitford Bridge, which would be dismantled and rebuilt with the original bricks to improve the structural stability of the historic walls, as part of the proposal. To the east of the dwelling, an area of tree planting is proposed to provide a buffer with the A12 road.

¹ Council Ref: PA/14/01731 and PA/15/01217 (Submission of details pursuant to discharge conditions)

12. Given the historic industrial use of the appeal site, its lack of soft landscaping and the contemporary design and appearance of No 129, which contrasts with the terraced properties to the north, the appeal site significantly differs from the homogenous appearance and layout of the other properties on Cadogan Terrace. Given these factors, in addition to the site's location on the periphery of the CA, away from Victoria Park, I consider that the appeal site makes a limited contribution to the significance and character and appearance of the CA.
13. The form and overall scale of the proposed dwelling would suitably reflect and align with the mixed-use development at No 129, whilst the external metal frame would contrast positively with the remaining brick structures. In addition, the backland nature of the development, would help No 129 turn the corner of Cadogan Terrace, which would respond to the modern buildings on the other side of the Hertford Union Canal, which address the waterfront in a similar manner.
14. Whilst I acknowledge, that the ground floor of the proposed dwelling would not be visible from the towpath of the Hertford Union Canal, the inclusion of a planted gabion wall, the maintenance of which for a period of 5 years from the completion of the development could be secured by planning condition, would ensure that the proposal assimilated well with the adjacent canal.
15. The Council have expressed concern that if the development were to come forward, a number of proposed trees, which are shown on the approved landscaping scheme for the adjoining development, would not be planted, and thus the proposal would be harmful to the verdant character of the area.
16. Whilst I accept that fewer trees are proposed, when the current proposal is compared to the approved landscaping scheme, I consider that the proposed landscaping plan, which includes the provision of two rows of trees positioned on the bank to the east of the site boundary, would, once mature, create a strong green buffer between the appeal site and the A12 road. In addition, the inclusion of a green roof and the planted gabion wall facing the canal, both of which would be visible from the public realm, would suitably complement the area of trees and act to extend the soft landscaping further into the site. Collectively, the trees, green roof and planted gabion wall would ensure that the proposal provides a high degree of soft landscaping, thereby positively responding to the area's verdant character.
17. The parties have drawn my attention to the appeal decision² of January 2018, which relates to the erection of a mixed-use development comprising of an office and a café at the appeal site. Whilst the Inspector concluded that the proposal would preserve the CA, the appeal was dismissed with the Inspector finding that the proposal would harm the character and appearance of the area and the living conditions of neighbouring occupiers of No 129 in respect of outlook and privacy. In addition, the location of the site was found to be unsuitable for the proposed use. I am not aware of the full circumstances in that case, but I note from the information provided, that the proposal relates to a very different form of development and therefore it is not directly comparable to the current proposal. In any event, it is necessary that I determine this appeal on its individual planning merits.

² Appeal Ref: APP/E5900/W/17/3180542

18. For the collective reasons set out above, I conclude that the proposal would successfully integrate into the streetscene, whilst responding to the area's verdant character. As such, the development would preserve the character and appearance of the CA as a whole. Consequently, the proposal would accord with Policies 7.4, 7.6 and 7.8 of the LP, Policies SP10 and SP12 of the Tower Hamlets LDF Core Strategy 2025 (2010) (the 'CS') and Policies DM24 and DM27 of the Tower Hamlets Local Plan Managing Development Document (2013) (the 'MDD'), insofar that they collectively require new development to be of a high quality design, which responds to the local character and conserves and, where appropriate, enhances the significance of designated heritage assets.

Living conditions of neighbouring occupiers

19. The Council asserts that the proposed development would result in an unacceptable loss of communal amenity space for the residents of No 129, as shown on the approved plans.
20. Policy DM4 of the MDD seeks to ensure that all housing is appropriate, high-quality, well-designed and sustainable. In respect of communal amenity space provision, there is no minimum standard for developments of less than ten units. Nevertheless, Paragraph 4.7 of the supporting policy text explains that the design and layout of communal spaces should support a range of activities including space for relaxation, gardening, urban agriculture and opportunities to promote biodiversity and ecology.
21. The appellant states that the flatted development, as built, provides 174 square metres of communal amenity space for occupiers of the eight flats. The Council has not disputed the appellant's calculation.
22. Whilst I acknowledge that the proposed development would result in a reduction in the amount of communal amenity space for the occupiers of the neighbouring flatted block, I am satisfied that the amount of communal amenity space, which would be retained for the occupiers of No 129 as part of the proposal, would be suitable for the number of occupants within the flatted block. Furthermore, I note that the site is located near to Victoria Park, which provides a large public amenity space and a variety of play equipment suitable for children of various ages.
23. In terms of the design and layout of the remaining communal space, due to its enclosed nature and the level of passive surveillance provided by the rearward facing windows of the flatted block, I consider that the space would provide occupiers with a suitable area to support a range of activities including drying washing, sitting outside and allowing children to play unsupervised. In addition, at my site visit, I noted that there were landscaped areas and wooden planters, which would afford residents with an opportunity to garden. In terms of promoting ecology and biodiversity, I have dealt with this as a separate main issue.
24. Neighbouring residents have expressed concerns that the proposal would harm their living conditions, in respect of safety, overlooking, outlook, air quality, noise and a loss of light. However, no substantive evidence has been put forward to demonstrate that this would be the case. In addition, no such concerns have been expressed by the Council. Based on the evidence before me, and my site observations, which included an assessment of the separation

distances between the proposed dwelling and the neighbouring properties, I have no reason to disagree with the Council in respect of these matters.

25. In conclusion, the proposed development would safeguard the living conditions of the occupiers of No 129 Cadogan Terrace in respect of the provision of outdoor amenity space. As such, the proposal would accord with Policies SP02 and SP10 of the CS and Policies DM4 and DM25 of the MDD, insofar that they collectively require new development to protect the amenity of neighbouring residents.

Site of Local Importance for Nature Conservation

26. The appeal site falls within a Site of Local Importance for Nature Conservation (SINC). Policy SP04 of the CS seeks to protect and enhance biodiversity value by ensuring that development protects and enhances areas of biodiversity value in order to achieve a net gain in biodiversity.
27. Policy DM11 of the MDD has similar aims to Policy SP04 of the CS, but additionally states that developments which will cause damage to a SINC, or significantly harm the population or conservation status of a protected or priority species, will not be supported unless the social or economic benefits of the development clearly outweigh the loss of biodiversity.
28. At present, the appeal site consists of an area of ruderal habitat, which, the main parties agree, is of very limited biodiversity value. However, the approved plans for the redevelopment of No 129, indicate that the appeal site, as part of the approved communal amenity area, should include nectar-rich planting to benefit bees and other pollinators, whilst the eastern part of the site should have been a wildflower meadow. On that basis, the Council argue that the proposal would lead to the loss of wildlife habitat within a SINC, and, whilst the impact on the SINC, taken as a whole, would be minor, there would be no social or economic benefits to outweigh this loss.
29. The appellant has submitted an ecology appraisal during the appeal process, which recommends several biodiversity enhancements, such as bat tubes, bird boxes, insect boxes and bee nesting boxes, all of which could be installed as part of the development to enhance the site's biodiversity value for local wildlife. In addition, the submitted landscaping plan indicates that the eastern part of the site, in addition to the green roof, would be planted with wildflower meadow turf.
30. Whilst a written planting specification for the wildflower meadow and green roof has not been provided, I see no reason why these details could not be secured by means of the imposition of a planning condition. As part of this condition, the Council could control the mix of plant species, to ensure that the development provided nectar-rich planting to benefit bees and other pollinators, as per the previously approved details.
31. Given that the proposal includes biodiversity enhancements and the provision of a wildflower meadow and green roof, I conclude that the proposal would achieve an overall net gain in biodiversity. As such, I conclude that the proposal would accord with Policy SP04 of the CS, Policy DM11 of the MDD, Policy 2.18 of the LP, insofar that they collectively require new development to protect and enhance areas of biodiversity value in order to achieve a net gain

in biodiversity, which in turn enhances London's network of green infrastructure.

Car free development

32. The Council state that surveys show that the road network surrounding Cadogan Terrace is under considerable parking stress. Daytime utilisation is at approximately 59% whilst night time stress is at 100%, which indicates that there is limited capacity for additional parking around the site. These figures have not been disputed by the appellant.
33. Policy DM22 of the MDD requires all new residential developments within areas of existing on-street parking stress to be car-free developments, which requires applicants to enter into a section 106 legal agreement with the Council to ensure that future residents are not able to secure parking permits. This in turn, minimises the impact of developments on the Borough's highways network and accords with the Council's aims of reducing car use and promoting the use of more sustainable modes of transport.
34. The appellant has submitted a completed section 106 legal agreement during the appeal process, which would ensure that future residents are not able to secure parking permits. The Council have not disputed the acceptability of the legal agreement. Having regard to Regulation 122 of The Community Infrastructure Levy (CIL) Regulations 2010 (as amended) and paragraph 56 of the Framework, I am satisfied that the planning obligation is fairly and reasonably related to the proposed development and necessary to make it acceptable in planning terms.
35. Given that there is a mechanism in place to ensure that the proposal is a car free development, I conclude that the proposal would accord with Policy SP09 of the CS, Policy 6.13 of the LP and Policy DM22 of the MDD, which collectively require new development to have an acceptable impact on the Borough's highways network by reducing car use and promoting sustainable transport methods.

Other Matters

36. Concern has been expressed that previous developments have not been undertaken in accordance with the approved drawings and that some trees were unlawfully removed. In addition, interested parties state that there was a lack of community engagement by the appellant prior to the submission of the planning application. Whilst this may or may not be the case, I have considered this appeal proposal on its individual planning merits only and have concluded that it would be acceptable for the reasons set out above.
37. Neighbouring residents of No 129 have stated that they are entitled to the use of the appeal site as a communal amenity space, as per the terms of their purchase/lease of the flats. In addition, some residents of Cadogan Terrace, state that the development would result in the loss of a historic access arrangement, which allows residents to service their back gardens, via the appeal site. However, these are separate legal matters, which fall outside of the scope of this appeal.
38. Interested parties have expressed concern that the proposal may reduce property values. The Planning Practice Guidance explains that the courts have taken the view that planning is concerned with land use in the public interest,

so that the protection of purely private interests such as the impact of a development on the value of a neighbouring property cannot be a material consideration.

39. A local resident has stated that the proposed dwelling would fail to meet the 'sustainability credentials' for new development required by the LP. However, I have not been referred to any local policy related to this matter, and therefore this is not a determinative point in this appeal.
40. Concerns have been expressed that the proposal would result in the felling of a group of existing mature trees to the east of the appeal site. However, the submitted arboricultural report and the tree protection plan demonstrate that the trees would be protected during the construction of the development. Compliance with these documents would be secured as part of an approved plans list condition.
41. An interested party comments that the development would prevent highways operatives from using an existing set of steps to the east of the appeal site. However, no substantive evidence has been put forward to demonstrate that this would be the case. In addition, no such concerns have been expressed by the Council.
42. None of the other matters raised alter or outweigh my conclusions on the main issues.

Conditions

43. The Council have suggested ten conditions which I have considered against the tests as laid out in paragraph 55 of the Framework. In the interests of consistency and precision, I have amended the wording of some of the conditions. For the reasons set out below, I have also imposed additional conditions relating to landscaping, ecology and biodiversity, the hours of construction and demolition, contaminated land and noise attenuation.
44. The appellant has agreed to the amended/additional conditions in respect of the current proposal. However, the Council did not provide any comments in respect of the amended/additional conditions.
45. Planning permission is granted subject to the standard three-year time limit condition. It is necessary that the development is carried out in accordance with the approved plans, for the avoidance of doubt and in the interests of certainty.
46. In the interests of the character and appearance of the area, it is necessary to impose conditions relating to materials, landscaping and the storage of refuse and recycling bins. To ensure that the character and appearance of the CA is preserved, it is necessary for the landscaping scheme, which includes details of earthworks showing existing and proposed finished levels or contours, to be agreed prior to the commencement of development.
47. In the interest of ecology and biodiversity, as per the submitted ecology appraisal, with the exception of the detailed recommendations in relation to the green roof, which the Council consider unacceptable, it is necessary to impose a condition to secure the recommended biodiversity enhancement and mitigation in respect of protected species. With regards to the green roof, I have imposed a condition to secure the full details of the structure.

48. To protect nesting birds, the Council have recommended a condition relating to the removal of trees, hedgerows, shrubs, scrub or tall herbaceous vegetation during nesting season. However, these recommendations are incorporated into the submitted ecology appraisal, which is the subject of a condition. Therefore, it is not necessary to impose a separate condition relating to nesting birds.
49. The Council have recommended a condition requiring details of the proposed boundary treatments to be agreed with the Council. However, I have incorporated these details into the landscaping condition. Therefore, it is not necessary to impose a separate condition.
50. The appellant agreed to pre-commencement conditions relating to external materials and the green roof. However, the Planning Practice Guidance states such conditions should only be used where there is a clear justification, which is likely to mean that the requirements of the condition (including the timing of compliance) are so fundamental to the development permitted that it would otherwise be necessary to refuse the whole permission. I consider that there is no clear justification for the imposition of pre-commencement conditions in relation to these matters. Therefore, I have altered the conditions to require the details to be submitted to and approved in writing by the local planning authority prior to the erection of the development above slab level.
51. To protect the water quality of the Hertford Union Canal, it is necessary to impose a condition requiring a Construction Environmental Management Plan to be agreed with the Council and the development constructed accordingly. To ensure that such risks are appropriately managed, it is necessary for these details to be agreed prior to the commencement of development.
52. Due to the proximity of neighbouring residents, it is necessary to impose a condition requiring a Construction Method Statement to be agreed with the Council and the development constructed accordingly. Similarly, it is necessary to impose a condition to restrict the hours of construction and demolition, in order to limit noise disturbance in the evenings and at weekends. To ensure that interests of neighbouring residents are safeguarded during the entire demolition and construction period, it is necessary for the details of the Construction Method Statement to be agreed prior to the commencement of development.
53. Due to previous land uses at the appeal site, it is necessary to impose a condition relating to the investigation, and if required, the remediation of contaminated land. To ensure that such risks are appropriately managed, it is necessary for these details to be agreed prior to the commencement of development.
54. To safeguard the living conditions of future occupiers, it is necessary to impose a condition requiring that the development is carried out in accordance with the recommendations of the submitted noise assessment.
55. Finally, to ensure the provision of adequate cycle parking facilities in order to promote healthy and sustainable travel choices, I have imposed a condition requiring the full details of secure cycle storage to be agreed with the Council.

Conclusion

56. For the reasons outlined above, and taking into account all other matters raised, I conclude that the appeal should be allowed.

Christopher Miell

INSPECTOR

Schedule of Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans:

Drawing Number 4685/P/100 (Site Location Plan)
Drawing Number 4685/P/200 (Proposed Site Plan)
Drawing Number 4685/P/201 (Proposed Floor Plans)
Drawing Number 4685/P/210 (Proposed South Elevations)
Drawing Number 4685/P/211 (Proposed West Elevations)
Drawing Number 4685/P/212 (Proposed North and East Elevations)
Drawing Number 4685/P/220 (South Boundary Wall)
Drawing Number 4685/P/230 (Proposed Section)
Drawing Number 4685/P/240 (Proposed 3D Views)
Drawing Number HWA10120_TPP (Tree Protection Plan)
Arboricultural Impact Assessment and Construction Method Statement by Hallwood Associates dated 19 July 2018

- 3) Prior to the erection of development above slab level, full details of all external facing materials shall be submitted to and approved in writing by the local planning authority. The relevant works shall be carried out in accordance with the approved details.
- 4) No development shall take place, including any works of demolition, until a Construction Method Statement has been submitted to and approved in writing by the local planning authority. The Statement shall provide for:
 - the parking of vehicles of site operatives and visitors;
 - loading and unloading of plant and materials;
 - storage of plant and materials used in constructing the development;
 - the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate;
 - wheel washing facilities;
 - measures to control the emission of dust and dirt during construction;
 - a scheme for recycling/disposing of waste resulting from demolition and construction works; and
 - details of 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.

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

- 5) Demolition or construction works shall take place only between 08:00 and 18:00 on Mondays to Friday, 08:00 to 13:00 on Saturdays, and shall not take place at any time on Sundays or on Bank or Public Holidays.

- 6) With the exception of the recommendations in relation to the green roof, the development hereby permitted shall be carried out in accordance with the recommended biodiversity enhancements and mitigation, as set out within the Ecological Appraisal by Cherryfield Ecology dated 31 July 2019. The works shall be implemented as approved prior to the first occupation of the development and the biodiversity enhancements retained thereafter.
- 7) Prior to the erection of development above slab level, full details of the green roof shall be submitted to and approved in writing by the local planning authority. The details provided should include the location and total area of the green roof, substrate depth and type, planting including any vegetated mat or blanket (though sedum mats should be avoided) and any additional habitats to be provided such as piles of stones or logs. The green roof shall be implemented as approved prior to the first occupation of the development.
- 8) Notwithstanding the submitted landscaping plan (dwg no: 17.368-P-202 REV:B), prior to the commencement of development full details of both hard and soft landscape works shall be submitted to and approved in writing by the local planning authority. These details shall include:
 - i. earthworks showing existing and proposed finished levels or contours;
 - ii. the trees to be retained and methods of protection during construction or demolition;
 - iii. planting plans; written specifications (including cultivation and other operations associated with plant and grass establishment); schedules of plants noting species, plant supply sizes and proposed numbers/densities where appropriate;
 - iv. a full specification of all proposed tree planting (including the quantity, size, species, and positions or density of all trees to be planted), how they will be planted and protected and the proposed time of planting;
 - v. means of enclosure and retaining structures;
 - vi. boundary treatments and any access points;
 - vii. hard surfacing materials;
 - viii. lighting and floodlighting;
 - ix. an implementation programme.
- 9) All planting, seeding or turfing comprised in the approved details of landscaping, including the green roof, 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.
- 10) Prior to the first occupation of the development hereby permitted, full details of secure cycle storage shall be submitted to and approved in writing by the local planning authority. The secure cycle storage shall be implemented as approved prior to the first occupation of the development and retained as such thereafter.
- 11) Notwithstanding the submitted proposed refuse store plan (dwg no: 4685/P/251), prior to the first occupation of the development hereby permitted, full details of the provision of refuse and recycling storage facilities

to serve the development shall be submitted to and approved in writing by the local planning authority. The storage facilities shall be implemented as approved prior to the first occupation of the development and retained as such thereafter.

- 12) No development shall take place, including any works of demolition, until a Construction Environmental Management Plan has been submitted to and approved in writing by the local planning authority. The Construction Environmental Management Plan shall include details of:

Proposed surface water arrangements (either via drains or surface water run-off) during the demolition/construction works, and during site occupation. Details should confirm the following:

- That no surface water (either via drains or surface water run-off) or extracted perched water or groundwater shall be discharged into the canal during the demolition/construction works. Such waters should be discharged to the available public combined sewer; and
 - That any surface water drains connecting the site with the canal are capped off at both ends for the duration of the demolition and construction works – i.e. at the point of surface water ingress and at any outfall to the canal.
- 13) Notwithstanding the Site Investigation Report by Risk Management Ltd dated August 2016, no development shall commence until an assessment of the risks posed by any contamination, carried out in accordance with British Standard BS 10175: Investigation of potentially contaminated sites - Code of Practice and the Environment Agency's Model Procedures for the Management of Land Contamination (CLR 11) (or equivalent British Standard and Model Procedures if replaced), shall have been submitted to and approved in writing by the local planning authority. If any contamination is found, a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development shall be submitted to and approved in writing by the local planning authority. The site shall be remediated in accordance with the approved measures and timescale and a verification report shall be submitted to and approved in writing by the local planning authority. If, during the course of development, any contamination is found which has not been previously identified, work shall be suspended and additional measures for its remediation shall be submitted to and approved in writing by the local planning authority. The remediation of the site shall incorporate the approved additional measures and a verification report for all the remediation works shall be submitted to the local planning authority within 28 days of the report being completed and approved in writing by the local planning authority
- 14) The development hereby permitted shall be carried out in accordance with the recommendations set out within the Noise Assessment by F1 Acoustics Company Ltd dated 15 October 2018. The works shall be implemented as approved prior to the first occupation of the development and shall thereafter be retained.

*****End of Conditions*****