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## Appeal Decision

Inquiry opened on 18 January 2022

Site visits made on 14 and 25 January 2022

**by C Masters MA (Hons) FRTPI**

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

**Decision date: 17<sup>th</sup> March 2022**

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**Appeal Ref: APP/E5900/W/21/3283117**

**Bellerive House, 3 Muirfield Crescent, London, E14 9SZ**

- 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 356 ACQ Limited against the decision of London Borough of Tower Hamlets.
  - The application Ref PA/20/02218, dated 13 October 2020, was refused by notice dated 18 August 2021.
  - The development proposed is demolition of the existing building and redevelopment to provide a residential scheme in a building of ground + 24 storeys, including car parking, cycle parking, access, landscaping and associated works.
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### Decision

1. The appeal is dismissed.

### Preliminary Matters

2. As a result of the ongoing pandemic, the inquiry was conducted 'virtually'. It opened on 18 January 2022 and closed on 26 January 2022. I would like to extend my thanks to all parties in terms of the positive way in which they approached the 'virtual' event.
3. I made an unaccompanied site visit on 14 January 2022 and revisited the site and had access to the existing building as an accompanied site visit on 25 January 2022.
4. The appellants sought to submit a number of minor changes to the appeal scheme. These changes involved minor amendments to the internal layout on floors 22 and 23, a replan of the 24<sup>th</sup> floor to include the addition of a communal terrace, changes to the bay module size of brick clad frames to the east and west elevations and widening of the central balconies, a number of minor changes to the ground floor including the addition of 'play on the way', relocation of the substation and repurposing the fourth floor cycle storage.
5. I reviewed these at the CMC on 29 November 2022 and subsequently advised that in light of the nature of the changes proposed, no party would be prejudiced by my accepting these plans and accordingly I have determined the appeal on that basis. The appellant carried out

consultation on these plans prior to the inquiry opening which concluded on 3 December.

6. A number of the areas of dispute between the parties were resolved prior to the inquiry opening. As a result, reasons for refusal 1 (tenure mix), 4 (connection to Barkantine Heat Network), 5 (wind conditions) and 7 (waste storage provision) were not pursued by the Council at the inquiry.
7. An executed Section 106 Agreement was submitted following the close of the inquiry. I have had due regard to the content of this document and return to this matter below.

## **Main Issues**

8. Taking the above into account, the main issues in this appeal are:
  - The effect of the proposal on the character and appearance of the area (including the quality of the design)
  - Whether the proposal provides for acceptable living conditions for future occupiers in terms of outlook, amenity space and communal play space

## **Reasons**

### *Site context and policy background*

9. The appeal site comprises a 0.07ha site and is located on the western side of the Millwall Inner Dock. It comprises an 8 storey building, currently vacant but previously used as offices. The existing building fronts the public walkway which runs along the perimeter of the dock and provides an important pedestrian route providing a connection to South Quay DLR station and Marsh Wall to the north and south towards the Glengall Bridge, Crossharbour District Centre and beyond.
10. Significant commercial redevelopment has occurred at the northern end of the Isle of Dogs, most notably the development of a cluster of tall buildings centred around 1 Canada Square which is around 245m high. To the south of Marsh Wall and along the west side of Millwall Inner Dock lie buildings of reduced height, running east west along Marsh Wall, including the Pan Peninsular building at some 150m in height. There is a general trend of buildings decreasing steeply in height southward along Millharbour, a road which runs south parallel with Millwall Inner Dock. Immediately to the north of the appeal site lies 45 Millharbour, a 14-storey residential building. Bellerive House lies at the end of this run of buildings, and shortly before Glengall Bridge which connects the west and east sides of Millwall Inner Dock. On the east side of the dock, development is generally around 14 storeys with a number of notable exceptions including the Arena Tower at some 44 storeys.

11. There are a number of sites in the wider area that are either allocated for development within the adopted local plan or benefit from planning permission and appear likely to be implemented. Of these, the most relevant to this appeal is the scheme known as Glengall Quay<sup>1</sup> which was granted on appeal. This site lies near to the appeal site and consists of a mixed use scheme including 319 residential units with two buildings 26 storeys and 30 storeys in height as well as private and communal open spaces, car parking and associated landscaping and public realm improvements. These buildings would straddle Pepper Street which leads from Glengall Bridge and which is recognised as an important east/west connection across the island. I was provided with significant background material in relation to this scheme during the course of the inquiry including extracts from a proof of evidence, the design and access statement as well as a neighbouring buildings plan which indicates the approximate location of these two towers relative to the appeal site.
12. In addition, the area further to the south facing Millwall Outer Dock includes the Westferry Printworks site (site allocation 4.12) which is allocated for housing and employment uses and benefits from a planning permission for in the region of 720 dwellings. Furthermore, the area on the east side of the Millwall Inner Dock includes the Crossharbour Town Centre (site allocation 4.3) which is allocated for redevelopment of the district centre to include housing.
13. In policy terms, the appeal site lies within the Millwall Inner Dock Tall Building Zone as defined in the Tower Hamlets Local Plan, 2020 (LBTHLP) at policy D.DH6. Part 2 of this Policy directs tall buildings to within Tall Building Zones and states that they must apply certain design principles, having regard to the Tall Buildings Study and other relevant policies. The relevant design principles require, amongst other things, that building heights significantly step down from the Canary Wharf cluster to support its central emphasis and should be subservient to it. In addition, building heights should step down from Marsh Wall.
14. It was common ground between the parties that the objective of retaining the primacy of the One Canada Square development would not be affected by the proposal and that secondly, the appeal proposal, would continue the gradual step down from Marsh Wall. LBTHLP policy D.DH6 does not prescribe a consistent stepping down of heights from Marsh Wall and there is no preclusion on variation in heights. The general stepping down of buildings along the west side of Millwall Inner Dock is apparent when viewed from the east side of the dock. The lower scale of buildings in the southern part of the Millwall Inner Dock area result in a more spacious and open character than the northern part near Marsh Wall. The area to the west of the site around Mellish Street is largely characterised by low rise terraced housing with a few taller towers sporadically spaced within the wider area.

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<sup>1</sup> APP/E5900/W/18/3194952

15. Aside from these design principles, the policy sets out a detailed twelve point criteria against which tall buildings will be assessed. In particular, I note that the policy requires that proposals are of a height, scale, mass and volume proportionate to their role, function and importance of the location in both the local, borough-wide and London context. In addition to the policy criteria outlined above, Policy D.DH6 also sets out that proposals should, amongst other things, achieve exceptional design quality and an innovative and sustainable building. Policy S.DH1 also emphasises that development must be of an appropriate scale, height, mass, bulk and form to its site and context.
16. The appeal site also forms part of a much larger site allocation 4.7 within the LBTHLP referred to as Millharbour South. This allocation reflects a number of the design principles established by the tall buildings policy. However, the site allocation includes an important emphasis that development should step down from Marsh Wall to the smaller scale residential areas south of Millwall Dock. It also expects development to reinforce and complement local distinctiveness as well as incorporating active frontages to surrounding streets and spaces. I shall return to these matters below.

*Character and appearance (including the quality of the design)*

17. Unlike other tall buildings along this western side of the dock, the appeal site is located on a relatively small, constrained site with the Datacentre (1 Muirfield Crescent/ 47 Millharbour) to the west, 45 Millharbour to the north and Davenport House and the consented Glengall Quay scheme to the south. Elsewhere along the Millwall Inner Dock, the taller buildings at Ability Place and Millharbour East benefit from wide returns which, along with the dock itself, provide a breathing space around the buildings. However, the appeal site does not benefit from this spacing. The positioning of the surrounding buildings adds to the feeling of bulk and massing in this dockside setting.
18. The proposed building would be 25 storeys high and therefore significantly taller than No 45 immediately to the north which is 14 storeys high. From the evidence on building heights alone and notwithstanding the clear conclusions above that policy D.DH6 does not preclude variations in height, it is clear that the proposed building would oppose the general townscape pattern of the buildings fronting the Millwall Inner Dock decreasing in building height from Marsh Wall. In size and scale terms, it would step up towards the consented Glengall towers and accordingly the assessment I make also needs to consider this emerging townscape context.
19. The parties disagree as to whether the appeal proposal would assist in providing a way marker to the Glengall Bridge to aid legibility and as an addition to the recently consented Glengall Scheme. There are a number of important differences in location and scale terms between the two schemes. Firstly, the appeal site is offset from the entry to Glengall

Bridge, which is currently marked by low rise brick buildings that project a short distance over the water. The proposed Glengall Quay scheme, given its height and position straddling Pepper Street, would mark the location of the bridge in both long and short views. In design terms, the towers here are also designed in a similar architectural language such that they would be read as a pair of buildings. Furthermore, the slender form of these towers would retain the sense of spaciousness that characterises the southern part of the Millwall Inner Dock area. The role of marking the location of the bridge as an important townscape nodal point, in so far as this is necessary, would in my view therefore be effectively carried out by the Glengall Quay scheme. Given its location within the Crossharbour District Centre as well as the important Pepper Street junction and taking into account the size and scale of the site compared to the surrounding development, the Glengall Quay scheme would also be effective in providing a gateway to the Crossharbour District Centre on the east side of Millwall Inner Dock.

20. In broader townscape terms, the Townscape, Visual Impact and Heritage Assessment considers the impact of the development on the townscape character in relation to a range of views. The appeal proposal would be only one storey lower than the shorter of the two Glengall Quay towers and would therefore appear as prominent in a number of views (view 14, view 15) rather than appearing subservient to them. While the top of the proposed building would be set back from the 21st floor and screened from view at street level, in longer views, such as from the east side of Millwall Inner Dock (view 17), the 'crown' of the building would be clearly visible such that the proposal would appear almost as tall as the Glengall Quay scheme and significantly taller than No 45 immediately to the north.
21. The three towers would be perceived in different ways in a range of views in the area, with the towers variably appearing to obscure one another. Whereas the Glengall Quay towers would be slender, the proposal would have a greater width than depth, resulting in a heavier massing. While the architectural treatment of the facade using brick piers would emphasise the verticality of the building, its overall width and bulk would nevertheless appear wider than each of the Glengall Quay scheme towers.
22. Furthermore, the width of the building would face directly onto Millwall Inner Dock, emphasising the heavier appearance compared with the slender towers of Glengall Quay scheme. This would be particularly apparent in from across the dock. Moreover, since the proposal would result in a cluster of buildings, rather than a pair, together the three towers would be viewed as a substantial increase in the scale of the local townscape. This would be particularly apparent when viewed from the low-rise residential area to the west. Rather than consolidating the nodal point, the proposal would in my view have a dominating effect on the street scene on the west side of Millwall Inner Dock. It would fail to take

account of the existing and emerging immediate context and surroundings. It would, when considered cumulatively with the consented Glengall Quay scheme, have an overbearing and overly dominant effect which would cause harm to the character and appearance of the area.

23. The appellants also content that the building would assist in illustrating the site as a point of townscape significance being located at the end of the buildings on the western side of Millwall Inner Dock, effectively providing a 'stop' to the face of the dock. I disagree. Accepting that the Glengall Quay scheme would mark the location of the bridge and the gateway to the Crossharbour District Centre, the resulting massing of the three towers would be harmfully disproportionate to the role and importance of this dockside location.
24. Since the Glengall Quay scheme would both mark the location of the Glengall Bridge, and act as a gateway for Crossharbour District Centre, the role of the appeal site in these terms is diminished. Moreover, I am mindful of the policy requirement in terms of the tall buildings policy for the building to be proportionate to the role and function of the site as well as the importance of the location in its local context. The site is located adjacent to the dockside, whereas the Glengall Quay scheme is set back from the waterfront<sup>2</sup>. The Glengall Quay towers, straddling Pepper Street, would be viewed as a clear gateway marker when viewed from the east and west approaching Glengall Bridge. Conversely, the proposed building, given its off-set position to the north of the bridge, would be seen to the side of the Glengall Quay buildings when viewed from both the east and west approaches to the bridge.
25. There is to my mind a clear case for the appeal site to be subservient to the role of the Glengall Quay scheme as a result of these factors. There is also some merit in the suggestion that the development should step up towards the location of townscape significance. However, the scheme before me would not achieve this. Rather, it would compete in both scale and form with the consented Glengall Quay tower scheme. Taking into account this immediate site context, the building would appear as a stark addition to the Millwall Inner Dock. It would present a marked step up in height, mass and scale to the Millwall Inner Dock. The design details would do little to mitigate the impacts of the overall bulk and scale of the building and fail to achieve the exceptional design quality envisaged by the policy.
26. At ground, first and second floors, the building would be chamfered at the southeastern corner and set back from the façade of the upper floors. This would create a three-storey colonnaded area at ground floor. The second floor would include a tray-like projection over the colonnaded area such that the space under the soffit of the 'tray' at ground level would be two storeys high.

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<sup>2</sup> APP/E5900/W/18/3194952 Paragraph 21



27. The external columns would be a sizable mass, commensurate to their function of supporting a tall building. Aside from the material, I see limited visual affinity between these columns supporting the proposed building and the dockside cranes which are presented as standalone features along the dock edge. The scale of the rest of the building above would be felt at ground level. This arrangement would also be out of keeping with the other buildings along the dockside which are generally set back at the upper levels. As a result, I am unable to conclude that the proposal would deliver a development which would present a human scale at street level as envisaged by policy D.DH6 of the LBTHLP.
28. The façade of the first three floors would be glazed, offering the possibility of views of the activities within the first three floors of the building. In addition, the proposed paving would run at an angle from the edge of the dockside through to the space under the soffit. Moreover, the materials of the core within the building would echo the external materials, thereby bringing external treatment to within the building.
29. Notwithstanding these positives, the internal spaces at ground floor would be for the private use of residents. The visual and physical relationship between the building and the ground floor would be limited to residents only. Accordingly, while the façade of the first three floors would be glazed, given the private use within, the building would not encourage social cohesion due to the lack of direct interaction between the building at ground level and the adjacent public realm as envisaged by policy D.DH6 of the LBTHLP. It would as a result fail to provide an appropriate design response at ground floor level.
30. To conclude, the proposal would fail to respect the areas character and distinctiveness. Specifically, it would fail to respond positively to the surrounding built environment and to reinforce and complement local distinctiveness. The proposal would fail to deliver a development which would be of a height, scale and mass proportionate to the role, function and importance of the location. It would also fail to present a human scale of development at street level. As a result of these conclusions, the proposal would conflict with policies S.DH1, D.DH2, D.DH4 and D.DH6 of the LBTHLP. There would also be conflict with a number of London Plan Policies including D3, D4 and D9 as well as strategic objective GG2.
31. For the same reasons, the proposal would conflict with policy D2 of the Isle of Dogs Neighbourhood Plan which applies specific criteria to high density development in accordance with the GLA Housing SPG. My attention has also been drawn to the Isle of Dogs & South Poplar Opportunity Area Planning Framework (2019). However, I am satisfied that the proposal would broadly accord with the general thrust of this planning framework in the context of the delivery of growth and associated social and transport infrastructure.

32. Overall, I am unable to conclude that the proposal would amount to good design, as envisaged by the Framework. Specifically, it would fail to add to the overall quality of the area (as envisaged by paragraph 126 of the Framework) and would also fail to add to the overall quality of the area, or deliver a visually attractive development, as envisaged by paragraph 130 of the Framework.

*Whether the proposal provides for acceptable living conditions for future occupiers in terms of outlook, amenity space and communal play space*

#### *Outlook*

33. The Council's concern in this regard relates to the proportion of single aspect units. The proposal would comprise 69 of the central units as single aspect only, 46% of the total number of units. A majority of these single aspect units would be located on floors 9 to 19 of the building. The LBTH High Density Living SPD 2020 advises that outlook plays an important role in terms of occupants well-being.
34. Policy D.DH8 places no defined percentage on a minimum number of single aspect units and advises that new development should have an acceptable level of outlook. However, London Plan policy D6 (C) advises that housing development should maximise the provision of dual aspect dwellings and should normally avoid the provision of single aspect dwellings.
35. In terms of these single aspect units, all of the units facing east would have a view of the dock and active dockside edge, as well as more expansive views from the upper floors. In my view this would provide a desirable and pleasant outlook commensurate with maximising the opportunities for visual interest which the site affords. The views from the third-floor units facing the north western corner would experience visual interest in terms of the residential neighbours, proximity to the activity taking place on the dockside and at ground level more extensive views of the lower rise residential areas and the City beyond. Again, I would consider this to provide a favourable outlook. In a similar vein, the views from the south west on the third floor would be towards the district centre and beyond, providing variety in terms of both the medium and longer distance views. On the fourth and fifth floors, the views from the single aspect units would be similar. Whilst the appreciation of ground floor and dockside activity may diminish, this would be offset by the improved expanse of the views experienced from these upper floors. This would also apply to the units on the sixth, seventh and eighth floors as the longer range of the views increased with the respective height. Overall, the units would provide an acceptable level of outlook.
36. The Council have also expressed concerns regarding the perceived 'limited' extent to which some of the dwellings on the third to eighth floors are 'technically' dual aspect. In particular, this concern relates to the secondary west facing windows along the gap between the appeal



site and Millharbour. However, even accepting the separation distance of 13m between the two, these units would still be dual aspect and importantly benefit from more extended views across the dock and beyond. I am unable to conclude that these units would result in an unsatisfactory outlook as a result.

37. To conclude in terms of outlook only, I am of the view that the proposal would deliver an acceptable level of outlook. The proposal would provide a satisfactory internal living environment for potential future occupiers. There would therefore be no conflict with policy D.DH8 of the LBTHLP in this regard. Although not referred to within the reason for refusal, this policy is of relevance in that it seeks to ensure, amongst other things, that development ensures new and existing habitable rooms have an acceptable outlook. For the same reason, the proposal would also accord with policy D6 (C) of the London Plan.

#### *Amenity Space and Communal Play Space*

38. The High-Density Living SPD advises at Design Guideline C.S.3 that the majority of primary communal amenity space should be provided outdoors. Furthermore, policy D6 of the LBTHLP advises at (D) that design development should, amongst other things, minimise overshadowing and maximise the useability of the outside amenity space. The proposal would provide approximately 689sqm of communal amenity space within the building. This would include a fitness studio, gym, home movie lounge, morning room, residents' cafe and indoor amenity space. In purely quantitative terms, I have no doubt that the internal communal amenity space provision would provide a number of high-quality internal communal space options for the future residents.
39. The provision of these internal areas would go some way to addressing the policy requirements in so far as the proposals would achieve an indoor environment that is comfortable and inviting to use. In terms of outdoor space provision, if the play on the way space is excluded (and in my view as this is not dedicated play space, it is correct to do so), the appeal proposal falls marginally short of the 198sqm requirement for outdoor play space at 186sqm. This marginal shortfall is not in my view determinative to the issue before me.
40. Despite these positives, I have a number of concerns regarding the overall outdoor amenity space provision within the scheme from ground floor to the twenty fourth floor in terms of both the layout and useability, surveillance, accessibility and location of these spaces relative to the residential units proposed. I deal with each of these areas in turn.
41. At the ground floor, the appeal proposal would include seating and planting to the dockside frontage integrated into the public circulation space. A piazza area would be created to link to the adjacent public realm. Within the undercroft space, play equipment would be located as well as 'play along the way' equipment along the dockside route. A

multipurpose fitness unit is located to the north as well next to the external bike store area.

42. 'Play along the way' can in some circumstances add to the variety and interest of the outdoor amenity space. In particular, I note that design guideline CS.10 of the LBTH High Density Living SPD advises that play spaces should, amongst other things, incorporate principles of natural play, being imaginative, and build in opportunities to experience risk and challenge. I am content that the proposal would meet these objectives. However, in this case, the 'play along the way' would be located on the footpath outside of the appeal site. This route provides an important connection from the south and west of the Glengall Bridge up towards Marsh Wall. It provides the most direct route in this location and being free of vehicular traffic, provides perhaps the most pleasant route when compared with Millharbour which runs parallel.
43. There can be no doubt that the volume of pedestrians using this route is set to increase with the Westferry Printworks and Glengall Quay schemes delivering in the order of 1100 new dwellings. I readily accept that some residents will choose to use Crossharbour Station, utilise the private car or other public transport such as the bus and other walking routes. Nevertheless, the route outside of the appeal site will remain one of the most direct routes to South Quay DLR Station and beyond.
44. Planting and some fixed seating of a substantial width would be located adjacent to the glazing at ground floor, such that the usable width of space in the colonnaded area would be reduced. The main entrance to the building would also be from within this space facing the dock. In my view, the introduction of play equipment would further reduce the spaciousness and legibility within the colonnaded space. It has the potential to create a conflict between those users of the dockside walkway, and residents of the proposed building. This tension between 'play on the way' and the public realm would be exacerbated by the additional footfall I have outlined above. The colonnaded area of the building would be subject to a number of public and private uses, such that the proposal would not result in a legible streetscape.
45. At the first floor, a small open air play terrace would be located in the southern corner of the building. Whilst this area would be relatively small, it would be adequately lit and would be accessed directly from the indoor soft play area. On the second floor, there would be a further open air terrace, comprising raised planters, seating and some play equipment. On both the first and second floor, the elevated nature of this space would provide users with the opportunity to observe the dockside from this elevated position.
46. However, I share a number of the concerns expressed regarding the useability of this second floor space and the limited access to direct sunlight given the location under the third floor slab. In particular, I note that only approximately 23% of the space would receive 2 hours

direct sunlight in March and only until midday. This position would be materially worse in the summer months when the sun is higher and residents would be arguably more inclined to use the space. Given the direct access to the indoor amenity space from this area, I am unable to agree with the appellants suggestion that the most sheltered area would provide welcome protection from direct sunlight for the younger years play. In my view, even applying the BRE guidelines flexibly as recommended by the Framework at paragraph 125(C), the second floor outdoor play space would provide a poor environment in terms of both location and layout for the desired use. It would fail to provide acceptable living standards as a result.

47. Turning to consider the communal roof terrace to be provided on the twenty fourth floor, whilst I acknowledge that this space would provide extensive views to the east, west and south, it would be accessed from the lift core in the same manner as the residential units on this floor. Despite being described as a primary space, its corner location, with limited visibility from the main circulation points within the building, situated next to the external plant room access, has the potential to feel disconnected and a cramped afterthought when compared to the other amenity space provision through the building.
48. To conclude in relation to the outdoor amenity space and communal play space when taken as a whole, the space would fail to provide a satisfactory living environment for potential future occupiers. With the exception of the first floor, the outdoor amenity space would fail to be of a high quality and useable feature for future residents. It would therefore conflict with policies D.DH2, D.DH3 and D.DH6 of the LBTHLP as well as policies D3, D4, D5, D6 (D), D8 and S4 of the London Plan. For the same reasons, the proposal would also conflict with the guidance contained within the High Density Living SPD.

### *Planning Obligation*

49. The parties have completed a Section 106 Agreement which includes a number of obligations to come into effect if planning permission is granted. I have considered these in light of the statutory tests contained in Regulation 122 of the Community Infrastructure Levy (CIL) Regulations 2010. Reflective of the wording contained within the CIL Regulations, paragraph 57 of the Framework advises that planning obligations must only be sought where they are (a) necessary to make the development acceptable in planning terms; (b) directly related to the development and (c) fairly and reasonably related in scale and kind to the development. The obligations relate to the following matters:
50. Affordable Housing – LP Policy S.H1 seeks to secure a minimum of 35% of the units as affordable (subject to viability). The agreement provides for 11 units (9%) and the appellant has provided viability evidence justifying this amount. The Council have confirmed that this amount is policy compliant. I can see no reason to reach a different view. In

these circumstances, it seems to me that the obligation would be fairly and reasonably related to the development proposed and would pass all of the statutory tests.

51. Carbon offsetting – this would be in the form of a payment of £180,918. Policy D.ES7 of the LBTHLP advises that in order to deliver zero carbon emission through development, a minimum of 45% reduction in regulated carbon emissions on site, and the remaining regulated carbon dioxide emissions to 100% be off set with a cash in lieu contribution. The Council have identified how this figure has been calculated with reference to LBTH Planning Obligations SPD (2021). The obligation would be fairly and reasonably related to the development proposed and would pass all of the statutory tests.
52. Docklands Light Railway (DLR) – a contribution of £127,392 towards improvement works to the Crossharbour DLR Station. This accords with policy D.TR2 of the LBTHLP. The contribution is directly related to the impact of the development on Crossharbour DLR station. I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.
53. A monitoring fee of £19,215 which is supported by the LBTH Planning Contributions SPD (2021). The SPD identifies how the amount has been calculated. I am of the view that this is a proportionate and reasonable approach and is related to the development proposed. It therefore passes the statutory tests.
54. A construction phase employment payment of £32,176. This would be in accordance with policy D.SG5 of the LBTHLP which is supported by the LBTH Planning Contributions SPD (2021) and would support and provide training, enterprise and skills needs of local residents in terms of accessing new job opportunities during the construction of the development. I consider that this obligation would be fairly and reasonably related to the development proposed and that it passes the statutory tests.
55. In addition, the Agreement also includes obligations relating to the provision of local employment opportunities, construction and/or end phase apprenticeships, a travel plan, on street park permit cap as well as public realm improvements. The Council have provided full justification for these obligations, and I am satisfied that they also pass the statutory tests.

#### *Other Matters*

56. My attention has been drawn to no fewer than 12 other appeal decisions. Where I have considered that there are issues which are common to both appeals, I have addressed these within my report. However, in light of the individual site specific nature of these other cases, none of these other appeal decisions and their planning context are so substantively similar to this case. As a result, the remaining appeal

decisions<sup>3</sup> are of limited relevance to the appeal decision before me. In any event, each decision must turn on the facts of the case and the evidence presented.

### **Planning Balance and Overall Conclusion**

57. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that applications must be determined in accordance with the Development Plan unless material considerations indicate otherwise.
58. From my assessment of the evidence, I have found that the proposal would fail to respond to the role and function of the site, and as a result of the proposed scale, height, form and massing, would fail to provide a development which is human in scale at street level. The proposal would therefore fail to respect the features which contribute to the character of the area and local distinctiveness. In addition, the outdoor amenity space provision (both communal and play space) would fail to provide an acceptable high quality space.
59. As a result, the proposal would conflict with the development plan and in particular policies S.DH1, D.DH2, D.H3, D.DH4 and D.DH6 of the LBTHLP as well as policies D3, D4, D6 (in relation to part C) D8, D9 and S4 as well as strategic objective GG2 of the London Plan. The proposal would also conflict with policy D2 of the Isle of Dogs Neighbourhood Plan. I attach significant weight to these harms and resultant development plan conflict.
60. Turning to consider other material considerations, the proposal would deliver 150 homes including the provision of affordable housing at 9%. Both the delivery of market housing and affordable housing are benefits which the scheme would deliver, and I have attached moderate weight to these benefits. The proposal would also deliver employment benefits in terms of the construction of the development, as well as regeneration benefits. I attach moderate weight to both of these factors.
61. Overall, I find that the development would fail to accord with the development plan when taken as a whole. The provision of both market housing and affordable housing would deliver benefits and attract moderate weight in favour of the proposal. The economic benefits also attract moderate weight in favour of the proposal. However, these other material considerations do not indicate that this appeal should be determined other than in accordance with the development plan.

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<sup>3</sup> APP/E5900/W/17/3190685, APP/E5900/W/19/3225474, APP/H1705/W/21/3274922, APP/Y3940/W/20/3253204, APP/P3610/W/21/3272074/APP/P3610/W/21/3276483, APP/FO114/W/21/3268794, APP/L5240/V/17/3174139, APP/F5540/V/19/3226900, app/w4705/v/18/3208020, APP/N5090/W/21/3271077, APP/E5900/W/17/3171437

62. I therefore conclude that the appeal should be dismissed.

*C Masters*

**INSPECTOR**



## **APPERANCES**

For the Local Planning Authority:

Ned Westaway of Counsel

Instructed by the Council of the  
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He called

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The Townscape Consultancy

## **Documents Submitted during the inquiry**

- A. Opening statement on behalf of the Council
- B. Opening statement on behalf of the Appellant
- C. List of plans to be approved agreed 250122
- D. DAS extract of the consented District Centre
- E. Proposed close up site plan
- F. Extract from the Glengall Quay DAS
- G. BRE Guidance for Daylight and Sunlight
- H. Plan identifying the neighbouring buildings
- I. Closing submissions of behalf of the Council
- J. Closing submissions on behalf of the Appellant