



Appeal Decision

Inquiry Held on 25-28 July 2023

Site visit made on 26 July 2023

by Stephen Normington BSc DipTP MRICS MRTPI FIQ FHE

an Inspector appointed by the Secretary of State

Decision date: 24th August 2023

Appeal Ref: APP/E5900/W/23/3318344

60-70 and 100 The Highway and 110 Pennington Street, London E1W 2BX

- 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 Big Yellow Self Storage Company Limited against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/21/02513, dated 10 November 2021, was refused by notice dated 5 December 2022.
 - The development proposed is the demolition of the existing buildings. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexi office/ workspace accommodation (Use Class E). Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/ business/ service units (Use Class E) and night time cultural venue and photography/ filming studio venue (Sui Generis). Ancillary works comprising vehicular access, service yard, parking, refuse store, landscaping and associated works.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing buildings. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexi office/ workspace accommodation (Use Class E). Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/ business/ service units (Use Class E) and night time cultural venue and photography/ filming studio venue (Sui Generis). Ancillary works comprising vehicular access, service yard, parking, refuse store, landscaping and associated works at 60-70 and 100 The Highway and 110 Pennington Street, London E1W 2BX in accordance with the terms of application Ref PA/21/02513, dated 10 November 2021, subject to the conditions set out in the attached Annex E.

Preliminary and procedural matters

2. A case management conference was held on 22 May 2023 to discuss administrative and procedural matters. The Inquiry opened on 25 July 2023 and sat for a total of 4 days (25-28 July 2023). I undertook a site visit on an unaccompanied basis on 26 July 2023, following an extensive and comprehensive itinerary prepared by the parties. I closed the Inquiry in writing

on 14 August 2023 following receipt of an updated schedule of suggested planning conditions (identifying those agreed and not agreed)¹, a completed planning obligation under Section 106 of the Town and Country Planning Act 1990² and a Community Infrastructure Levy (CIL) Compliance Statement³.

3. Prior to the opening of the Inquiry, two Statements of Common Ground (SoCG) were submitted and signed by both the Appellant and the Council. These comprise a SoCG (Overarching)⁴ dated June 2023 and a SoCG (Noise)⁵ dated 21 June 2023.
4. The Council's Decision Notice⁶ following determination of the planning application identified a single reason for the refusal of planning permission. This stated that the use and opening times of the replacement nightclub, with members of the public queuing, arriving and leaving late into the night and early hours of the morning, would cause serious harm to the living conditions and wellbeing of the future residents of the proposed affordable housing through noise, disturbance and anti-social behaviour. This then set out the relevant policies of the development plan that the proposal was considered to be in conflict with.

Main Issue

5. Having taken into account the evidence before me and from what I heard at the Inquiry, the main issue is the effect of the use and opening times of the nightclub component of the proposed development on the living conditions and well-being of the occupants of the future residential units of the scheme with particular regard to noise, disturbance and anti-social behaviour.

Reasons

The appeal site and proposed development

6. The appeal site comprises a rectangular plot containing existing built development predominantly bordered by The Highway (A1203) to the north, Pennington Street to the south, and Artichoke Hill to the west. The majority of the western element of the site is occupied by the Big Yellow Self Storage warehouse facility. Other units (Unit 1, Unit 2 and part of Unit 3) are occupied by 'Studio Spaces' who utilise the space flexibly as a nightclub venue and also as a photography/filming studio. Studio Spaces operate the nightclub under the trading name 'E1'. There is a hardstanding car park and service yard fronting on to The Highway. As a result of the level change across the site the building comprises a two-storey building fronting The Highway and a three-storey building fronting Pennington Street.
7. The existing buildings are not statutorily or locally listed, nor are they located within a Conservation Area. There are statutorily listed buildings in the immediate surroundings, including a Grade II listed building described as Pennington Street Warehouses which is located directly to the south of the Site on the south side of Pennington Street. Other listed buildings located within proximity of the appeal site comprise of the Grade I listed building known as

¹ ID10

² ID11

³ ID12

⁴ CD1.1

⁵ CD1.2

⁶ CD3.13

Tobacco Docks, the Grade I listed 'Church of St George in the East', the Grade II listed building 'Gate piers to Church Drive at Church of St George in the East' and other listed structures associated with this Church. Tobacco Dock acts as an event venue space, including music events. The impact of the proposed development on heritage matters is considered later in this decision.

8. The existing site comprises built development and hard standing with no trees or soft landscaping. However, there are trees present on the footpath adjoining the northwest corner of the site. The proposed development would retain these street trees.
9. The immediate environment surrounding the site is characterised by a mix of commercial and residential uses. Residential flats/apartments occupy the western side of the junction of Pennington Street with Artichoke Hill.
10. Immediately abutting the east of the site is a petrol filling station and a drive-thru restaurant. The site occupied by these uses was granted permission for residential led development in 2022 (Ref: PA/19/00559). However, at the time of my site visit, both of these existing uses were in operation and I did not observe any evidence that any above ground construction work pursuant to this planning permission had commenced.
11. On weekdays, Studio Spaces runs as a photography/filming studios for various media shoots. On weekends, E1 operates as a 1,600 capacity nightclub which the parties identified is the largest regular night venue of its kind in the borough. It has regular events between 2200 and 0700 on Fridays and Saturdays, although its premises licence allows for 24-hour opening on Fridays and Saturdays and 0600 to 0030 Sunday-Thursday.
12. The nightclub is an established part of the London night-time music scene. Its retention is supported by planning policies identified below. As part of consultations on the planning application, the Greater London Authority (GLA) Culture at Risk Unit identified that the nightclub caters for a diverse audience, including vital programming for the LGBTQ+ community and is a valuable part of London's cultural and night-time economy. The existing venue is an inclusive space which caters for persons of protected characteristics as defined by the Equality Act (2010). The protection and enhancement of such inclusive spaces is supported by the Development Plan.
13. An Equalities Impact Assessment⁷ (EqIA) accompanied the Officer Report to the Council's Development Committee⁸. This identified that the proposed development would negatively impact on groups with protected characteristics unless mitigation measures are secured. Both main parties agree that provision for the nightclub is necessary as an integral part of the proposed development in accordance with relevant Development Plan policies.
14. The proposal involves the demolition of all existing buildings on the site and the erection of a standalone larger rectangular building to the west as well as a T-shaped building to the centre of the site and a smaller rectangular building located to the south-east. The building on the western part of the site would be ground floor plus seven upper storeys and comprise approximately 7,778sqm (GIA) self-storage facilities at all floor levels along with approximately 1,418sqm flexible office/workspace from basement to fourth

⁷ CD3.7

⁸ CD3.6

floor. This building would include an internal service yard for 16 commercial car parking spaces accessed from The Highway and 2 internal commercial van parking spaces accessed from Pennington Street.

15. The proposed buildings on the eastern and south-east parts of the site would comprise of two 8 storey buildings. These would provide 114 residential units, of which 40 (38%) would comprise affordable housing, along with a replacement nightclub/photography and filming studio venue at lower-ground and ground levels and flexible commercial space at lower-ground and ground level.
16. The proposed development would be delivered in two phases. Phase 1 would comprise the delivery of the West Building to deliver the self-storage facility and flexi offices/workspace. Phase 2 would comprise of the delivery of the remainder of the proposed development, which would include delivery of the East and South-East buildings. Phase 1 would be completed prior to the commencement of Phase 2. The phasing of the proposed development would enable the continuous provision of the night club use.

Planning Policy Context

17. The SoCG (Overarching) identifies that the Development Plan for the purposes of section 38(6) of the Planning and Compulsory Purchase Act 2004 is:
 - Tower Hamlets Local Plan 2031 (2020) (the Local Plan)⁹;
 - The London Plan (2021)¹⁰.
18. The Council has recently commenced work on preparing a new Local Plan. However, this is in the very early stages of preparation and the SoCG (Overarching) sets out that both main parties do not consider this emerging plan to be a material consideration in the determination of this appeal. Neither party made any reference to this emerging plan during the Inquiry. Consequently, I have attached no weight to the emerging Local Plan.
19. The London Plan identifies the appeal site as falling within the City Fringe Opportunity Area. The City Fringe Opportunity Area Planning Framework (OAPF) sets out the strategic policy directions for these areas and provides minimum guidelines for housing and employment capacity (15,500 new homes and 50,500 new jobs). Development proposals within Opportunity Areas are expected to optimise residential and non-residential output and densities, contributing to the minimum guidelines for employment and housing numbers.
20. Within the Local Plan, the appeal site is identified within 'Sub-area 1: City Fringe'. The Vision for City Fringe states that the area will become a more attractive place to live, work and visit, and that new communities will be well integrated into the area, benefiting from the close proximity to existing and new employment, retail and leisure uses within the wider area. The site also falls within the Tower Hamlets (City Fringe) Activity Area where development should support a mix of uses which make a positive contribution to health and well-being and promote active uses at ground floor level.
21. I consider the following policies are relevant to the consideration of this appeal:

⁹ CD6.2

¹⁰ CD6.1

Tower Hamlets Local Plan 2031 (2020)

- Policy D.DH8 (Amenity) states, amongst other things, that development is required to protect and where possible enhance or increase the extent of the amenity of new and existing buildings and their occupants, as well as the amenity of the surrounding public realm. To achieve this, development must not create unacceptable levels of noise during the construction and life of the development.
- Policy D.ES9 (Noise and vibration) sets out that development is required to (a) use the most appropriate, layout, orientation, design and use of buildings to minimise noise and vibration impacts; (b) identify/outline mitigating measures to manage noise and vibration from new development, including during the construction phase; (c) separate noise-sensitive development from existing operational noise; and (d) provide a noise assessment where noise-generating development or noise-sensitive development is proposed. The policy further states that where new noise-sensitive land uses are proposed in proximity to existing noise-generating uses, development is required to robustly demonstrate how conflict with existing uses will be avoided, through mitigation measures. Development is also required to demonstrate that the level of noise emitted from any new heating or ventilation plant will be below the background level by at least 10dBA.
- Policy D.DH2 (Attractive streets, spaces and public realm) requires, amongst other things, development to improve safety and the perception of safety for pedestrians and other users.
- Policy S.CF1 (Supporting community facilities) supports development which seeks to protect, maintain and enhance existing community facilities. It states that development should maximise opportunities for the provision of high-quality community facilities to serve a wide range of users and, where possible, facilities or services should be accessible to the wider community outside of core hours and co-located or shared to encourage multi-purpose trips and better meet the needs of different groups.
- Policy D.CF2 (Existing community facilities) identifies that existing community facilities must be retained unless it can be demonstrated that there is no longer a need for the facility or there is an alternative community use within the local community. It further states that where community facilities are re-provided on site as part of the development, the quality and accessibility of these facilities (including public access) should be enhanced.
- Policy D.TC5 (Food, drink, entertainment and the night-time economy) identifies, amongst other things, that entertainment venues within the D2 or sui generis use classes will be directed to the Tower Hamlets Activity Area where it can be demonstrated that such uses will not result in adverse impacts on the amenity of the surrounding area.
- Policy D.ES10 (Overheating) states that new development is required to ensure that buildings (both internally and externally) and the spaces around them are designed to avoid overheating and excessive heat generation, while minimising the need for internal air conditioning systems.

London Plan 2021

- Policy D3 (Optimising site capacity through the design-led approach) requires, amongst other things, development to optimise site capacity, ensuring that it is of the most appropriate form and land use for the site and help prevent or mitigate the impacts of noise.
- Policy D11 (Safety, security and resilience to emergency) states, amongst other things, that development should include measures to design out crime and maintain a safe and secure environment.
- Policy D13 (Agent of Change) explains that the 'Agent of Change Principle' places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. It further states that development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them. It requires that new noise and other nuisance-generating development proposed close to residential uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses. The 'Agent of Change Principle' places the responsibility for mitigating the impact of noise and other nuisances firmly on the new development to protect occupiers from noise and other impacts. Development proposals should manage noise and other potential nuisances. Proposals that have not clearly demonstrated how noise and other nuisances will be mitigated and managed should not normally be permitted.
- Policy D14 (Noise) sets out that in order to reduce, manage and mitigate noise to improve health and quality of life, residential and other non-aviation development proposals should manage noise by avoiding significant adverse noise impacts on health and quality of life, reflecting the 'Agent of Change Principle' as set out in Policy D13 Agent of Change, mitigating and minimising the existing and potential adverse impacts of noise in the vicinity of new development without placing unreasonable restrictions on existing noise-generating uses. Where it is not possible to achieve separation of noise-sensitive development and noise sources without undue impact on other sustainable development objectives, then any potential adverse effects should be controlled and mitigated through applying good acoustic design principles to reduce noise at source and on the transmission path from source to receiver.
- Policy HC5 (Supporting London's culture and creative industries) states that development proposals should protect existing cultural venues, facilities and uses where appropriate through an understanding of the existing cultural offer in the London Boroughs, evaluate what is unique or important to residents, workers and visitors and develop policies to protect those cultural assets.
- Policy HC6 (Supporting the night-time economy) states that planning decisions should promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, and town centres to protect and support evening and night-time cultural venues such as, amongst other uses, nightclubs.

- Policy HC1 (Heritage conservation and growth) requires, amongst other things, that development proposals affecting heritage assets, and their settings, should conserve their significance, by being sympathetic to the assets' significance and appreciation within their surroundings. The cumulative impacts of incremental change from development on heritage assets and their settings should also be actively managed.
 - Policy SI4 (Managing Heat Risk) requires that major development proposals should demonstrate through an energy strategy how they will reduce the potential for internal overheating and reliance on air conditioning systems in accordance with a cooling hierarchy set out in the policy.
22. In terms of national policy and guidance, the provisions of the 'Noise' chapter of the Planning Practice Guidance (PPG) and, amongst others, paragraphs 130 and 187 of the National Planning Policy Framework (the Framework) are particularly relevant to the consideration of the main issue in this appeal.

Noise and Disturbance

23. The SoCG (Noise) identifies that the Council is concerned with noise from external noise sources on living conditions within the proposed flats and in particular the potential for noise to impact on sleep at night. The noise sources concerned include sounds from people's voices, sounds from vehicles, including engine noise, door slams and horns and sounds from the movement of goods, equipment or barriers used by the nightclub. There is disagreement between the parties on the appropriate criteria to be adopted for the control of noise from within the night club and from Tobacco Dock to maintain satisfactory internal noise levels in the proposed residential units.
24. It is further agreed that if a noise level which is below the lowest observed adverse effect level (LOAEL) is achieved, no further noise mitigation steps are required. If a level that is between the LOAEL and a significant observed adverse effect level (SOAEL) is present, then all reasonable steps should be taken to mitigate and minimise that noise. However, such a noise level does not necessarily mean that planning permission should be refused. The parties agree that a level which is above the SOAEL should be avoided and that, in general, this would mean that planning permission would be refused.
25. There is no objection to the principle of the mix of uses on the appeal site on noise grounds in this 'Activity Area' and the nightclub and residential uses can, in principle, acceptably co-exist. The reason for the refusal of planning permission is primarily concerned with the effect of patron noise and its effect on sleeping due to noise being experienced in bedrooms.
26. The issues between the main parties regarding noise primarily relate to three matters. Firstly, the appropriate LOAEL and SOEAL criteria in relation to bedroom noise. Secondly, the calculation of predicted noise levels within the bedrooms and the role of reverberation time in the calculation. Finally, whether variants of two planning conditions relating to the assessment and mitigation of noise from the nightclub and Tobacco Dock are appropriate.

LOAEL and SOAEL

27. The Appellant considers that the threshold below which sleep disturbance is unlikely to occur for sudden noises internally at night (2300 to 0700 hours) is 45dB L_{Amax}. This value comes from the World Health Organisation Guidelines for

Community Noise 1999 (CNG)¹¹ on sleep disturbance. There has been more recent guidance [World Health Organisation Night Noise Guidelines for Europe 2009 (NNGE)]¹² which suggests that some effects on sleep may be noticed at 35dB L_{Amax},

28. Although the NNGE proposed a value of 42dB L_{Amax} to be used to avoid health effects, further research by the World Health Organisation in 2018 concluded that, due to data reliability concerns, their original recommendation to achieve levels of 45dB L_{Amax} or below remain valid. The Environmental Noise Guidelines for the European Region (NNE) 2018¹³ recommends that all CNG guidelines should remain valid. This includes the recommendation that to avoid sleep disturbance at night, internal noise levels should not exceed 45dB L_{Amax}.
29. The Council considers that night-time noise should be controlled to be no higher than 35dB L_{Amax} as the LOAEL. In particular, it is contended that the research on which the 45dB L_{Amax} figure is based derives from studies relating to transportation noise sources and that there is no specific discussion in the CNG of the particular characteristics of patron noise from nightclubs. Such patron noise can be more disturbing than what is called 'anonymous' noise without a specific character such as road traffic and train noise sources. Consequently, I accept that patron noise can be described as 'non anonymous' noise.
30. The Council identified that BS 8233 (2014)¹⁴ states, as a general principle, that "Occupants are usually more tolerant of noise without a specific character than, for example, that from neighbours which can trigger complex emotional reactions". The Council considers that the more disruptive nature of non-anonymous noise strongly supports making an adjustment to the LOAEL for the character of the noise source present in this case.
31. The Council considers that the majority of research on which the 45dB L_{Amax} is derived relates to aircraft or other transportation sources which is generally more stable and predictable in nature than the sound of shouting and the character of that shout relevant to tone, words used, and expression. The Council considers that a level of 45dB L_{Amax} inside a bedroom would be clearly audible, although the Appellant likened this to the sound of a paper clip dropping on a table.
32. The NNGE provides the basis for the Council's assertions that 35dB L_{Amax} should be used as the LOAEL. This identifies in Table 5.1 that biological and sleep quality effects, where sufficient evidence is available, could occur at 32, 35 and 42dB L_{Amax}. Furthermore, the Council suggests that one hotel chain has adopted a night-time L_{AFmax} criterion of 42 dB generally for music and patron noise. Taking into account the above, the Council considers that 35dB L_{Amax} should be used as an alternative preferable criterion for the LOAEL as being the threshold at which changes in the duration of various stages of sleep, in sleep structure and fragmentation, occur. It further considers that 45dB L_{Amax} would be suitable for the SOAEL.
33. However, the Council's noise witness accepted that he was not able to point to any guidance as to what specific level the 45dB L_{Amax} figure should be reduced

¹¹ CD7.13

¹² CD7.15

¹³ CD7.16

¹⁴ CD7.9 paragraph 7.7.1

to in order to adjust for the non-anonymous nature of the noise¹⁵.

Furthermore, no evidence was presented in the form of appeal or planning decisions where a LOAEL of less than 45dB L_{Amax} had been used. The Council's noise witness also accepted that neither he nor his firm distinguish between L_{Amax} levels from transportation noise and other sources when undertaking noise surveys and that this is consistent with standard industry approach.

34. Although I recognise that the Council's case with regard to the appropriate LOAEL is supported by Table 5.1 of the NNGE, the NGE concluded that this is not soundly based¹⁶. The NGE further states " ... *all CNG indoor guideline values and any values not covered by the current guidelines ...should remain valid*"¹⁷.
35. Taking into account the above, I accept the Appellant's view that the use of 45dB L_{Amax} is universally followed for all night-time noise surveys, irrespective of the source of noise. The evidence suggests that when designing glazing and alternative means of ventilation, acoustic consultants measure external noise levels over a number of nights and use typical L_{Amax} values from the survey to calculate the acoustic specification required. However, 45dB L_{Amax} is used as the LOAEL as a suitable design criterion to control noise from external sources, whatever that source might be.
36. Furthermore, BS 8233 provides no guidance relevant to the use of the L_{Amax} criterion for community noise and does not identify examples of design criteria adopted by hotel chains for hotel bedrooms. At Table H3¹⁸ the night-time indoor ambient noise level range for hotel bedrooms is given as 45-55 dB L_{Amax}. In my view, this demonstrates further that 45 dB L_{Amax} is an appropriately robust criterion to adopt for the LOAEL.
37. Concluding on this matter, I find the Appellants evidence to be compelling that 45 dB L_{Amax} is the appropriate robust, and industry standard, LOAEL to be used in this case. As to the Council's contention that 45 dB L_{Amax} should be used as the SOAEL, no robust and substantive evidence was provided to support this. In any event, the key issue in this case is the appropriate LOAEL which is the level that bedroom noise needs to be maintained. In that context, it is not necessary for me to give any further consideration to a SOAEL.

Predicted Noise Levels and reverberation time

38. Noise of the type referred to (from "queuing, arriving and leaving") would be highest at the units closest to and facing onto Pennington Street. The proposed residential development would be provided with glazing with a suitable acoustic specification and alternative means of ventilation such that windows of the units could remain closed thereby ensuring that the noise from people queuing, arriving and leaving the nightclub premises would not result in disturbance within habitable rooms, particularly bedrooms. Although the affected windows would need to be closed to achieve the necessary sound reduction, they would not need to be fixed closed; they could be openable to allow for purge ventilation, if desired. The Appellant's evidence provides the acoustic specifications for glazing required for living rooms and bedrooms with

¹⁵ ID8 paragraph 20.

¹⁶ CD7.16 page 11

¹⁷ CD7.16 page 28

¹⁸ CD7.9 page 70

the highest predicted incident noise levels on Pennington Street (from all noise sources, including from people arriving, leaving and queuing).

39. I accept that the noise generated by people queuing, arriving or leaving would be highest when those people raise their voices (shouting/laughing and so on). The key parameter, when considering shouting, is the maximum instantaneous level; the sudden noise (such as from a shout) which may only last a fraction of a second, but which has the potential to disturb sleep. This is measured using the L_{Amax} parameter, which is the highest sound pressure level measured in any 125 milliseconds.
40. The closest bedroom windows to the potential source of noise (shouting) would be those in Units B-0-3 and B-0-4. The centre of these windows would be 7.6m above ground level outside the club. The Appellant's evidence identifies that a male voice produces higher noise levels than a female and the sound level of a group of men shouting at the same time (i.e. within the same 0.125 second, which represents a worst case) would result in a level of 88dB L_{Amax} (free field) when assessed at the closest proposed bedroom window. The Appellant's evidence provides levels at each octave band frequency for such shouting and the sound reduction expected from windows with the recommended acoustic performance 39dB, RW+Ctr¹⁹. Since the rooms would have no roofs or ceilings directly exposed to the sound and there would be no vents (as the units would be provided with mechanical ventilation) directly to the noisy area, so there would be no sound ingress through those potential pathways.
41. BS 8233 provides the relevant equation for predicting noise levels within a room ($Leq,2$) when the free field level outside the room (incident on the window), Leq,ff , is known. Using the glazing sound reduction values, the proposed room and facade feature dimensions and this equation, it can be determined that, to ensure that the level inside the closest proposed bedroom does not exceed 45dB L_{Amax} , the maximum level incident on the external window from shouting (or other noise) would need to not exceed 96dB L_{Amax} (as a free field value).
42. Survey work has been carried out to evaluate worst case levels which occur outside the existing club at night. The survey involved measurements over 9 weekends between early November 2022 and early January 2023 between 2300 to 0700 hours when the club was operational. Over the period of the survey there were 29 occasions when there were particularly loud shouts, which would have resulted in a level equal to or above 84dB, L_{Amax} at the location of the proposed closest bedroom windows.
43. However, there were no shouts at any time which exceeded 87dB, L_{Amax} (as a free field value) at the location of the proposed closest bedroom windows. Other sounds present, some of which may have been associated with the operation of the club, included the sound of vehicle engines and horns, trolley movements and banging occurring during loading equipment from the club at the end of a night. The highest other sounds present would result in a level of 92dB, L_{Amax} at the closest proposed windows. Therefore, on this basis, the Appellant's evidence demonstrates that there would be no exceedance of the 45dB L_{Amax} LOAEL.

¹⁹ Table 3.3 Mr Bentlet PoE

44. Moreover, the SoCG (Noise) confirms that both parties agree that the noise levels from activities associated with the use of the club would be unlikely to exceed 91dB, L_{Amax} (free field) at the closest proposed windows²⁰. It further confirms that the parties agree that the highest maximum noise levels from the above sources within the bedrooms which experience the highest noise levels would be within the range 35dB – 41dB L_{Amax} from shouting (based on three source spectra of 83dB L_{AFmax} , free-field outside the bedroom window). Noise from other sources would be in the range 39dB – 45dB L_{Amax} (based on source spectra of 91dB L_{AFmax} free-field outside the bedroom window)²¹.
45. The main parties agree that the reason for the variation in estimated internal levels is due to the different assumed reverberation times within the rooms²². Whilst the use of the appropriate reverberation time was a matter of some discussion during the Inquiry, the fact remains that the SoCG (Noise) identifies that the highest agreed noise levels, as set out above, would not exceed the LOAEL. Nonetheless, it is necessary for me to consider the appropriate reverberation time to be used in order to determine the most reasonable approach used in calculating the internal bedroom noise levels and the effect, if any, that this may have in leading to exceedances of the LOAEL.
46. The reverberation time of a room is defined as the length of time it would take for a noise level within the room to decay to a level which is 60db below the initial noise level once that initial noise level stops. The Appellant advises that it is often not possible to measure a drop of 60dB, so the value is estimated by extrapolating from measurements of a reduction of 20 or 30 dB. The reverberation time depends on the size of the room, the sound frequency present and the degree of sound absorption (or reflection) of the surfaces of all objects in the room, including walls, floor and ceiling.
47. In order to calculate noise levels, the Appellant has included an addition reflecting reverberation time of 0.125 seconds across all frequency ranges. This is primarily on the basis that the nature of the external noise sources relating to the appeal site, which were surveyed over a three-month period, shows that there were few which were not short instantaneous events extending beyond the 0.125 second period. In relation to such events, the Appellant considers that the highest measured L_{Amax} value would not be affected by reverberation present in the relevant room. The Appellant therefore considers that the addition of 0.125 seconds is a robust assumption which would serve to overstate the internal level. Furthermore, it is contended that the correct calculation either adds nothing for reverberant sound or, erring on the side of caution, adds the reverberant energy present during the 0.125 seconds in which the measurement takes place.
48. The Council considers that the Appellant's assumed reverberation time of 0.125 seconds in their calculations for external noise ingress is unconventional and a that a reverberation time of 0.5 seconds is considered to be the industry standard approach. BS EN ISO 12354-3:2017 – 'Building acoustics – Estimation of acoustic performance of buildings from the performance elements'²³ and BS EN ISO 16283-1:2014+A1:2017 – 'Acoustics – Field

²⁰ CD1.2 paragraph 2.10

²¹ CD1.2 paragraph 2.14

²² CD1.2 paragraph 2.15

²³ CD7.21

measurement of sound insulation in buildings and of building elements²⁴ are examples quoted where a reverberation time of 0.5 seconds is referenced. The use of 0.125 seconds reverberation time leads to predicted internal $L_{\max}$ levels of 6dB less than would occur assuming a reverberation time of 0.5 seconds.

49. In my view there is some authoritative justification for the use of 0.5 seconds of reverberation time. However, research relied upon by the Appellant shows²⁵ that the extent to which reverberation energy is present is greater at lower frequency ranges whereas external patron noise associated with the nightclub operation principally involves human voices and therefore higher frequency noise²⁶. On the basis of the evidence provided, I accept the Appellant's view that the application of 0.5 seconds across the frequencies would exaggerate the noise by 1-2 dBA. Consequently, the Council's highest predicted maximum level would be 43 or 44dB $L_{\max}$ and therefore well below the LOAEL. In this regard, I do not need to consider further the inclusion of the loud bang observed on 2 January 2021.
50. In conclusion, there are differences in views as to what reverberation level should be used. However, on the basis of the evidence provided, and taking into account my view above that the LOAEL is 45dB $L_{\max}$ and the range of agreed predicted noise levels set out in the SoCG (Noise), the predicted noise levels would not exceed the LOAEL irrespective of what reverberation time is used.

Consideration of the planning application by the Council with regard to noise

51. The planning application was accompanied by a Noise Assessment²⁷. This identified that with the appropriate design, construction and mitigation measures, the various proposed uses on the site can co-exist without having a detrimental noise impact on each other or on nearby noise sensitive uses subject to a number of suggested planning conditions. It concluded that with the proposed conditions, there would be no adverse noise effects arising from the operation of the proposed development and there would be no adverse noise impact on the noise sensitive elements of the proposed development. Furthermore, subject to the proposed planning conditions, it concluded that the proposed development would meet the requirements of national and local planning policy.
52. Prior to the consideration of the planning application by the Development Committee, the Council engaged external noise consultants to consider the Appellant's submitted noise information. The Officer Report to Development Committee identified that the main noise source from the replacement nightclub to new homes on-site is anticipated to be from queuing on Pennington Street, although this is mainly planned to take place underneath the colonnade.
53. It further stated that development has been designed so that soundproofing and glazing levels would sufficiently limit such noise from street level. It stated that the location of the nightclub with residential on upper floor levels and a buffer in-between would be similar to public houses with ancillary accommodation above, and bars or nightclubs on high streets with residential

²⁴ CD7.24

²⁵ CD7.20

²⁶ CD1.2 Table 4.2

²⁷ CD5.7

units above. However, it identified that in this instance, the co-location would be purpose-built to meet policy requirements relating to safeguarding future residential amenity and bringing forward development that is consistent with the 'Agent of Change Principles'. It confirmed that Environmental Health (Noise) and the appointed noise consultant are satisfied with the noise mitigation measures proposed and that internal residential units would achieve acceptable noise levels, subject to the imposition of a post-completion noise testing condition to new residential units to ensure acceptable internal noise levels are met and a legal agreement to ensure that prospective occupants of residential units are made aware of the potential noise levels emanating from the use of the nightclub on-site.

54. In my view, this evidence further demonstrates that, even with the most extreme shouting (and other sounds present) which might occur outside the club, the proposed noise mitigation scheme would be more than adequate to ensure that internal noise levels would not exceed the recommended threshold to avoid sleep disturbance.

Noise control planning conditions

55. The Council and the Appellant have each provided a version of two suggested planning conditions. The first (condition No. 52) relates to the submission of a noise and vibration mitigation scheme prior to the commencement of Phase 2 of the development in relation to the nightclub use. The second similar condition (condition No. 53) relates to the submission of a noise mitigation scheme in respect of noise emissions from Tobacco Dock. The technical content of the conditions is different primarily due to which of the parties' noise evidence I rely on with regard to the predicted internal noise levels that would be experienced in the habitable rooms of the proposed units and which LOAEL I consider is the most appropriate to be used.
56. Although I consider all proposed planning conditions later in this decision, for the reasons identified above, I consider that the Appellant's noise evidence and the calculation of noise mitigation to be robust. Furthermore, I have found that the use of 45dB L_{Amax} for the LOAEL, consistent with the Appellant's view, would be the most appropriate in this case. Consequently, the variant of the two disputed conditions proposed by the Appellant would be more appropriate and take better account of fluctuations in music noise.
57. Furthermore, the Appellant's proposed condition No.52 is similar to that agreed with the Council's appointed acoustic consultant during the determination of the planning application and would likely result in virtual inaudibility inside the relevant noise sensitive property. This condition appears to be based on similar conditions²⁸ imposed by the Council within the Borough for the control of entertainment noise.

Noise conclusion and Agent of Change Principle

58. The planning application was accompanied by a noise assessment report and accompanying technical note. The evidence in this Inquiry suggests that these were extensively discussed and agreed with the Council's appointed noise specialist prior to consideration by the Development Committee. I recognise that the Appellant's case relies on people keeping their windows closed during

²⁸ CD3.4

the relevant opening times of the nightclub on Pennington Street and to some extent the windows facing The Highway due to traffic noise. However, such arrangement is not uncommon in London Borough's both in residential units and in hotel accommodation. Whilst I have considered below the effect of keeping windows closed on overheating within bedrooms, in this regard there is nothing unusual in the window design of this development.

59. Notwithstanding the evidence presented in the Inquiry, I have found that the proposed development would not result in any material exceedance of the LOAEL irrespective of which reverberation time is used.
60. Taking the above factors into consideration, and the imposition of relevant planning conditions, I am satisfied that the proposed development would not cause serious harm to the living conditions and wellbeing of any future residents of the proposed housing units as a consequence of noise and disturbance. Consequently, there would be no conflict with policies D.DH8, D.ES9 and D.DH2 of the Local Plan and Policies D3, D11, and D14 of the London Plan.
61. In coming to the above conclusion, I have also taken into account the Council's concerns that the proposed development does not address the 'Agent of Change Principle'. In particular, that the design does not ensure that the nightclub and the events at Tobacco Dock could operate without unreasonable restrictions being placed on them as a consequence of unacceptable noise levels being experienced by the occupants of the proposed residential units. However, I have found above that the proposed development would provide adequate mitigation to ensure that internal noise in habitable rooms can be maintained within acceptable levels that would not exceed the LOAEL that I have identified.
62. I am satisfied that the proposed relevant noise conditions, in particular conditions Nos. 52 and 53, would require adequate consideration of noise and vibration emanating from the nightclub and events at Tobacco Dock. Furthermore, the submission details, technical consultee responses, and the evidence provided in the Officer Report, demonstrate that in designing the scheme the Appellant applied the 'Agent of Change Principle' in relation to existing and committed residential units which might be adversely affected.
63. Consequently, I do not consider that the proposal would compromise the 'Agent of Change Principle' and therefore there would be no conflict with the relevant provisions of Policy D13 of the London Plan nor paragraph 187 of the Framework.

Overheating Risk

64. Although not identified as a reason for the refusal of planning permission, during the Inquiry the Council expressed concerns²⁹ that the inclusion of the nightclub in the scheme results in a reliance on mechanical systems for heating and cooling. In particular, that occupiers will purge ventilation by opening bedroom windows at times when the nightclub is operating with resultant noise impacts.
65. All of the proposed residential units would be permanently ventilated by mechanical ventilation with heat recovery (MVHR). The ventilation system

²⁹ Paragraph 5.56 Mr Ibbott PoE and paragraph 5.20 of the Council's Statement of Case

would operate by supplying fresh air to the lounges and bedrooms and extracting air from bathrooms and kitchens. The units would contain a heat recovery device to reclaim heat in the exhaust ductwork back into the supply during the winter. The units would also be equipped with temperature sensors that enable outside air to divert around the heat recovery device as the outside air temperature increases and the heat recovery facility is no longer required. Relevant overheating criteria requires that rooms must not exceed 26°C for more than 3% of the annual occupied hours.

66. The evidence of Mr Sturt confirms that MVHR systems are considered the most energy efficient and effective method of providing fresh air to modern apartments that are constructed to high air tightness standards. They are becoming an essential building component for compliance with Part L of the Building Regulations and are necessary to meet the enhanced standards required within the London Plan.
67. The cooling hierarchy set out in London Plan policy SI4 requires a stepped approach, with steps 1 to 4, undertaken when preparing an energy assessment to reduce the potential for overheating and reliance on air conditioning systems. Steps 5 and 6 are generally required to be considered where external influences prevent the use of passive ventilation, this is usually due to issues with external air quality or noise.
68. I accept the Appellant's contention that background noise levels within inner London are such that on a high proportion of developments it is necessary to move from step 4 (passive ventilation) of the cooling hierarchy and consider steps 5 and 6 (mechanical ventilation and active cooling). In this regard, the evidence of Mr Sturt confirms that the noise impact assessment identified the presence of high external noise levels from road traffic and occasionally from people queuing to enter the nightclub venue on Pennington Road. The noise levels recorded indicated that, if recommended noise levels were to be maintained, the windows would have to remain in the closed position.
69. The overheating assessment results indicate that 79% of the sample bedrooms exceed 26°C for less than 1% of the year. The sample apartments used for the assessment are intentionally over the top three levels, as these are exposed to more direct sunlight. Including the remaining dwellings would therefore result in a smaller proportion of apartments exceeding 26°C and those that do, will be for fewer hours and less intense. Detailed analysis of the worst performing apartment indicates that this dwelling exceeds 26°C and is warmer than the outside air temperature between the hours of 10pm and 12pm for just four hours during the test summer year, indicating that opening the windows on the warmer evenings is most likely to lead to higher internal temperatures.
70. The PPG³⁰ recognises that in the case of new residential development, if the proposed noise mitigation relies on windows being kept closed most of the time then a suitable alternative means of ventilation is likely to be necessary. In my view, there is nothing unusual about the proposed MVHR system which I consider would maintain adequate internal temperature heating and cooling controls for the occupants of the proposed residential units. Whilst there may be a risk that some occupants may wish to open windows, for the vast majority of the time this would allow hot air into the unit rather than providing any purge cooling.

³⁰ Paragraph 005 Reference ID: 30-005-20190722

71. I have also taken into account the Council's concerns that those living in the affordable units may be compelled to turn the cooling unit off and to open their windows to purge ventilation. However, I am not convinced that this would be the case. The Appellant's evidence suggests that the advantage of MVHR with cooling units is that the heat recovery function will provide energy savings in the cooler months to offset the cost of their operation in the summer months. There is no evidence that the small annual cost³¹ of their use would be prohibitive. Furthermore, the evidence suggests that MVHR is commonly used in affordable housing schemes.
72. Taking the above factors into account, and in the absence of any other contrary technical evidence, I do not consider that use of the proposed MVHR system would place an increased risk of windows to be open and thereby exposing the occupants to external noise impact. In fact, the evidence suggests the contrary and that in all likelihood windows would remain closed to ensure the effective use of the system.
73. Therefore, in my view, there is no demonstrable evidence to suggest that the proposed MVHR system would cause either a risk of unacceptable noise exposure or cause any overheating risks that would be detrimental to the living conditions of the occupants of the proposed residential units. Consequently, there would be no conflict with the provisions of Policy D.ES10 of the Local Plan or Policy D3 of the London Plan.

Anti-social behaviour

74. Part of the Council's reason for the refusal of planning permission identifies that the proposed development would give rise to anti-social behaviour that would cause serious harm to the living conditions and wellbeing of the future residents. My considerations above, and in the evidence provided by both main parties, demonstrates that noise associated with the queuing of patrons to the nightclub may be associated with some degree of anti-social behaviour that could result in noise.
75. However, other than noise related anti-social behaviour, no other evidence was provided in the Inquiry to suggest that the proposed development would demonstrably give rise to any other form of anti-social behaviour that would cause serious harm to the living conditions of the future residents. The Planning Officer's Report³² to Development Committee identified that the Metropolitan Police, subject to considerations regarding Secured by Design standards, raised no other objections to the proposal.
76. The noise associated with any anti-social behaviour has been taken into account in the evidence of both main parties. Furthermore, proposed planning condition No. 38 requires the incorporation of security measures that meet the requirements of 'sabre' for Phase 1 and 'secured by design' for Phase 2. In my view, this condition would broadly satisfy the requirements of the Police and assist in ensuring that the proposed development can be safely occupied.
77. In the absence of any other evidence to the contrary, other than associated noise, I am unable to conclude that the proposed development would give rise to any other form of anti-social behaviour that would cause harm to the living

³¹ Paragraph 5.36 Mr Sturt PoE

³² CD3.6 paragraph 5.30

conditions and wellbeing of the future residents. Consequently, I find no conflict with Policy D11 of the London Plan.

Other matters

Effect on the special interest of nearby heritage assets

78. Although the Council's reason for the refusal of planning permission does not identify any concerns regarding the impact of the proposed development on designated heritage assets, I am nevertheless required to have regard to the statutory duty to consider the effect of the proposal on such assets within the context of Section 66 and Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990. I have had regard to the desirability of preserving or enhancing the designated heritage assets.
79. The proposed development would be visible within the setting of the Grade I Listed Church of St George in the East, located approximately 124m to the north-east, and its Grade II listed wall. However, given the fact that the appeal site lies at a lower ground level to the Church, the intervening distance and vegetation, I consider that it would appear subservient to these assets. The presence of the proposal behind the intervening trees, whilst marginally increasing the sense of enclosure to the Church, would not impact in any significant way on the sky-space around the church. Taking these factors into account, I consider that the proposal would preserve the settings and those features of special architectural or historic interest of these listed buildings.
80. The St George in the East Conservation Area is located to the northeast of the appeal site and includes the Old Rose public house (a non-designated heritage asset), located at the junction of Chigwell Hill and The Highway. The proposal would be visible in views from the Conservation Area. The consented development at 102-126 & 128 The Highway, which includes The Old Rose public house, would introduce massing directly adjacent to the public house which would significantly reduce the relationship with the proposed development. Therefore, I consider that no harm would be caused to the setting of the Conservation Area.
81. As a result of its scale and height, the proposed scheme would have an increased presence within the settings of the Grade II listed Pennington Street Warehouses, located directly across Pennington Street to the south, and the Grade I listed Tobacco Dock to the south-east (approximately 51m away). However, I agree with the Council's views expressed in the Officer Report that the proposed architecture and materials are complementary and that the proposal would integrate well within the setting of the two assets. Furthermore, the scale and detailed design of the building would introduce some balance to Pennington Street without distracting from the heritage assets when viewed from the east. Although, the proposed development would be slightly visible above the roofscape of Tobacco Dock, given the intervening distance, I do not consider that this would have any discernible effect on the setting of this heritage asset. The proposal would not result in any notable loss of views of the two heritage assets from The Highway.
82. The proposed development would be visible within the wider setting of the Wiltons Music Hall Conservation Area, located approximately 170m to the north-west. However, the appeal scheme would appear relatively low within the background and of a similar scale to existing buildings on The Highway. As

such, the proposal would have a neutral impact on the setting of this Conservation Area.

83. I have had special regard to the desirability of preserving or enhancing the designated heritage assets. Natural England confirmed in consultations on the planning application that it did not wish to comment on the proposals. In the absence of any other evidence to the contrary, I concur with the Council Officer's view that the proposal would preserve the character and appearance of surrounding conservation areas in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and would also preserve the setting of listed buildings in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).
84. Consequently, the proposed development would not be in conflict with the relevant provisions of Policy S.DH3 of the Local Plan, Policy HC1 of the London Plan, nor with the relevant provisions of Part 16 of the Framework.

Alternative position of the nightclub

85. The Council suggested that insufficient consideration had been given to the prospect of relocating the new nightclub beneath the self-storage facility. However, an alternative position for the nightclub does not form part of the proposed development that was considered by the Council. Moreover, it does not form any part of the appeal proposals before me. As such, I have determined this appeal on the basis of the plans and supporting documents provided in the Inquiry.
86. An alternative position for the nightclub is, in my view, speculative as it is not proposed by the Appellant, nor has it been subject to any formal planning analysis or assessment. I recognise that this matter was raised in pre-application considerations³³ but I have no evidence to suggest that this was actively pursued by the Council as part of the determination of the planning application. As such, I have attached no weight to the Council's contention that the nightclub should be positioned beneath the self-storage facility.
87. In any event, I concur with the Appellant's view that such proposition would have resulted in the nightclub entrance being moved closer to existing residential properties on Artichoke Hill which would be unlikely to possess the acoustic mitigation for patron noise which would be secured for the new residential units within the appeal scheme.
88. The Council also raised concerns in the Inquiry that the Appellant should have explored opportunities to accommodate the nightclub entrance on The Highway. However, Transport for London (TfL) were quite clear in their advice to the Appellant dated 24 August 2021³⁴ that it did not consider such proposals were feasible as this may result in highway safety issues and attract kerb side activities (both legal and illegal) to The Highway, which would be a detriment to the TfL Road Network. Similarly, such proposal does not form part of the appeal scheme before me.

³³ CD3.1

³⁴ CD5.5 Appendix 1

Other matters

89. Although no objections were submitted in response to the appeal notification, I have taken into account the concerns raised by a number of interested parties in response to the Council's consultation on the planning application. Although these matters have been carefully considered, they do not alter the main issue which has been identified as the basis for the determination of this appeal, particularly in circumstances where the Council's reason for refusal does not identify any objection to the appeal scheme for these other reasons.
90. I have also taken into account the support from the owner of part of the site that abuts the proposed development, which is subject to the extant planning permission for a residential led development. This supports the re-provision of the existing nightclub within the proposed scheme and that the management and control provisions would ensure that the proposed nightclub is operated responsibly for the benefit of existing and future residents as compared to the existing, unrestricted position. As such, it is considered that there are significant, material benefits that are derived from this scheme. It further comments that the evidence provided by the Appellant, which has subsequently been independently verified by the Council's appointed assessor, demonstrates that the proposed nightclub use will not have any material impact on the living conditions of the proposed residential dwellings.

Planning Obligation

91. A completed agreement pursuant to Section 106 of the Town and Country Planning Act 1990 (S106 Agreement) has been provided. In considering whether the agreement is appropriate I have taken into account the provisions of the CIL Compliance Statement, pursuant to Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) (CIL Regulations), provided by the Council. The completed S106 Agreement would secure a number of obligations and financial contributions which are set out below.
92. Schedule 2 sets out provisions for the delivery of the affordable housing units. It includes an accommodation schedule setting out the number and type of units that are to be subject to be provided on the basis of affordable rent and intermediate housing. It also includes provisions for the delivery of wheelchair accessible housing units and for early-stage viability reviews.
93. Schedule 3 sets out a number of financial contributions. These include a sum towards the provision of 6 accessible car parking bays in the vicinity of the development; a carbon offset contribution towards the development and delivery of a carbon offsetting scheme; a construction phase employment and training contribution to support and provide training to local residents in accessing new job opportunities in the end user phase of the development; a pedestrian crossing improvement contribution to create new and improved walking networks; a development co-ordination and integration contribution payable towards projects and interventions to address the cumulative impacts of construction activity; and, an on-street restrictions contribution towards the cost, if necessary, of highway restrictions in the vicinity of the proposed development.
94. The CIL Compliance Statement sets out in detail the reasons why the financial contributions are considered necessary, how they directly relate to the

proposed development, are fair and reasonable in terms of scale and kind, together with their relevant planning policy basis. I am satisfied that these are compliant with paragraph 57 of the Framework and CIL Regulation 122.

95. Schedule 4 sets out the provisions for the proposal to comprise car free development. This includes restrictions on applications for a permit to park for occupiers of the residential units (other than holders of a disabled person's badge) in a place designated under section 45(2) of the Road Traffic Regulation Act 1984 for the use of residents of Phase 2.
96. Schedule 5 makes provision for an employment strategy requiring, amongst other things, best endeavours to ensure that 20% of the job vacancies for the construction phase are filled by local residents, provisions for apprenticeships and the procurement of 20% of the total value of goods and services from local companies and suppliers based in the Borough. Schedule 6 relates to the provision of commercial and residential travel plans aimed at reducing car use and promoting more sustainable transport modes.
97. Schedule 7 makes provision for compliance with the Council's Code of Construction Practice and requires the construction contractor to sign up to the Considerate Constructors Scheme. Schedule 8 requires reasonable endeavours to enter into a Section 278 Agreement(s) with the relevant highway authority for the highway works pursuant to the provisions of the Highways Act 1980.
98. Schedule 9 relates to the architect's retention and design certification to ensure that the original design is maintained through the development process to completion. Schedule 10 requires the provision of an Affordable Workspace Strategy and Plan to support the growth of local businesses and includes an obligation that affordable workspace would be let at all times at rent which are at least 10% below commercial market rent.
99. Schedule 11 requires the provision of charitable self-storage space for use by Charities for the lifetime of the self-storage use. Schedule 12 relates to the provision and management of public realm, in particular, the pedestrian link proposed through Phase 2 of the development linking Pennington Street to The Highway.
100. Schedule 13 relates to the future nightclub use. It includes, amongst other things, provisions relating to the offer of the lease of the nightclub to the preferred nightclub operator, temporary arrangements for the operation of the existing and proposed nightclub during construction works, nightclub specifications including acoustic mitigation measures and an events strategy to ensure that the proposed nightclub hosts a proportion of LGBTQ+ events. It also requires the submission of a Nightclub Noise Management Plan to the Council for approval prior to occupation of Phase 2 of the proposed development. Schedule 14 requires noise notification information to be provided to prospective occupants of the residential units about the location and operating times of the nightclub and details of the noise reduction measures incorporated into the development.
101. The agreement also includes details of a draft a deed of easement between the Appellant and the owners of Tobacco Dock to ensure that future occupants of the residential units are aware of the potential for noise nuisance during events at Tobacco Dock. However, I have no evidence to suggest that this deed of

easement has been completed. Consequently, I have attached little weight to the provisions of the draft deed of easement.

102. Section 17 relates to a rents and nominations agreement between the Council and a Registered Affordable Provider/Alternative Affordable Housing provider relating the occupation of the affordable housing units. As no such provider can yet take ownership of the proposed affordable units, this part of the agreement cannot be completed. Nonetheless, I recognise that this would form part of the occupation mechanism of the affordable units to be provided on the site and supplements Schedule 2.
103. Having regard to the above, and based on the evidence before me, I am satisfied that all of the provisions set out in the S106 Agreement are directly related to the development and fairly and reasonably related in scale to the development. Therefore, the obligations all meet the tests as set out within paragraph 57 of the Framework and CIL Regulation 122. I am satisfied with the form, drafting and content of the agreement and therefore I have attached weight to the obligations contained therein.

Benefits of the proposed development

104. The SoCG (overarching) confirms that the Council can demonstrate a 5.5 year supply of housing land within the Borough. Consequently, the so called 'tilted balance', as set out in paragraph 11 of the Framework is not engaged. Nonetheless, the proposal would make a significant contribution to help achieve the Council's housing targets for both market and affordable housing. The Framework emphasises the importance of delivery of housing. As such, I have attached significant weight to the housing delivery proposed in the appeal scheme.
105. The scheme would provide a purpose-built nightclub that would help secure the future of a significant cultural venue that is used by individuals with protected characteristics under the Equality Act 2010. I have also attached significant weight to this benefit.
106. The planning application was accompanied by an Economic Benefits Statement³⁵ (the EBS) which sets out a number of benefits that the appeal scheme would achieve. It is estimated that the proposed development would support an average of 150 FTE jobs over the 3.5-year construction period from entry level positions to highly skilled and specialised roles. The EBS also identifies that the non-residential floorspace could accommodate 780 – 850 FTE gross jobs with an average of 815 jobs. Taking into consideration the existing employment (c. 240 jobs), this would result in a net uplift of 545 – 620 FTE jobs giving an average of 580 jobs.
107. The EBS also identifies that 920 sqm of the 1,418 sqm, of proposed office/workspace will be made available at a reduced rent, to further support small and start-up businesses. In addition, approximately 625 sqm of flexible commercial space would be provided in Phase 2, thereby creating further employment opportunities and active street frontages.
108. The provision of additional benefits secured through the S106 Agreement, as considered above, include employment skills training, local goods procurement

³⁵ CD5.61

and local labour in the construction workforce, including construction phase apprenticeships.

109. In terms of Gross Value Added (GVA) the EBS identifies that the jobs are estimated to generate approximately £63 million per annum in GVA depending on the exact mix of uses that will be accommodated by the proposed development. This equates to a net increase of £46 million per annum.
110. Overall, I have afforded significant weight to the economic and employment benefits that the scheme would provide and which were not disputed in the Inquiry.

Planning Balance

111. As set out above, the proposal would deliver a number of benefits. The Framework emphasises the importance of delivery of housing. The provision of 114 residential units, of which 40 (38%) would comprise affordable housing would make a substantial contribution to housing delivery in the Borough and should be afforded significant weight.
112. The proposal would provide for the re-development of a brownfield site in an Opportunity Area and Activity Area that would create an acceptably designed beneficial mixed-use scheme that is commensurate with the land use policies in the Development Plan. It would constitute an effective use of land that intensifies uses and maximises utilisation and efficiency of the site which is sustainably located. Within the scheme, the retention of the nightclub, identified as a significant cultural venue, should be afforded significant weight. There would be no conflict with the provisions of Policies S.CF1, D.CF2, D.TC5 of the Local Plan or Policies HC5 and HC6 of the London Plan.
113. I have set out above the economic and regeneration benefits of the scheme which, in this case, are substantial and therefore should be afforded significant weight.
114. I have found that the proposed development would not cause serious harm to the living conditions and wellbeing of any future residents of the proposed housing units as a consequence of noise and disturbance. Consequently, there would be no conflict with policies D.DH8, D.ES9 and D.DH2 of the Local Plan and Policies D3, D11, D13 and D14 of the London Plan. Furthermore, there is no demonstrable evidence that the proposed development would give rise to any other form of anti-social behaviour that would cause harm to the living conditions and wellbeing of the future residents.
115. I have also found that there would be no harm to heritage assets. As such, there would be no conflict with the relevant provisions of Policy S.DH3 of the Local Plan, Policy HC1 of the London Plan, nor with the relevant provisions of Part 16 of the Framework.
116. I conclude, having regard to the main issue and the other matters raised, that the benefits of the scheme would demonstrably outweigh any adverse impacts likely to be associated with it. Furthermore, the appeal scheme comprises sustainable development which would accord with the Development Plan taken as a whole. Material considerations do not indicate that the appeal should be determined other than in accordance with the Development Plan.

Conditions

117. I have considered the proposed planning conditions, including a number of pre-commencement conditions, that, other than the two noise related conditions identified above, were provided and agreed between the Council and the appellant and discussed at the Inquiry. I have considered these against the advice given in paragraph 56 of the Framework and the guidance contained in the section on 'Use of Planning Conditions' in the PPG. Where necessary I have amended them in the interests of clarity, precision, conciseness or enforceability.
118. In addition to the standard time limit (No. 1), conditions (Nos. 2 and 3) relating to the approved plans and documents and the phasing of the development are necessary in the interests of certainty. In order to protect the living conditions of existing residents, a condition (No. 4) is necessary that provides working hours, ground borne and structural borne vibration limits and noise limits for the proposed demolition, building and engineering operations. For the same reasons, the submission of a Construction Environmental Management and Logistics Plan is also necessary (No. 5).
119. In order to minimise the visual effects of the development and in the interests of protecting the character and appearance of the area, conditions are necessary requiring the submission and implementation of details of external materials; details of tree planting on The Highway; landscaping; restrictions on the provision of plant, water tanks and air conditioning units on the roofs; restrictions on the provision of external roller shutters; restrictions on the provision of external plumbing, pipe and ductwork on the external faces of the building; the retention of external glazed surfaces to ground floor frontages as transparent glazing free from mirroring, painting or obscured by transfers; the provision of details of any satellite dishes or aerials and details of frontages to commercial units (conditions Nos. 6, 8, 9, 15, 16, 17, 18, 20 and 42). A condition is also necessary to protect existing trees adjoining The Highway from damage during construction works (No. 7).
120. In the interests of biodiversity, a condition is necessary requiring the submission and implementation of details of biodiversity mitigation and enhancement (No. 10). In order to protect the Borough's cultural, creative and community facilities a condition is necessary to ensure that Unit 1 and Unit 2 is used as a photography and filming studios and replacement nightclub and for no other purpose (No. 11). In the interests of securing employment floorspace, providing an appropriate mix of uses and to maintain the vitality of nearby shops and facilities, conditions are necessary that define the relevant class of uses that should be occupied in Phase 1 and units 3, 4, 5 and 6 of Phase 2 and to ensure that no individual flexible commercial unit exceeds 200 sqm gross floor area (Nos. 12, 13 and 26).
121. A condition is necessary to ensure the provision and management of communal amenity and play spaces to ensure that the proposed development is provided with adequate communal and inclusive recreational spaces (No. 14). In the interests of promoting sustainable construction and minimising carbon dioxide emissions, conditions are necessary requiring the implementation of measures outlined in the submitted energy strategy and the completion of the GLA's Whole Life-Cycle Carbon Assessment template (conditions Nos. 19 and 45).

122. In order to protect the subsurface sewerage system from damage, a condition is necessary requiring the submission of a Piling Method Statement (No. 21). In the interests of safeguarding future residents from air pollution and to minimise the impact on air quality, conditions are necessary requiring details and maintenance of mechanical systems, the submission of a Dust Management Plan and measures to ensure that all non-road mobile machinery meets relevant emission standards (conditions Nos. 22, 23 and 24).
123. A condition is necessary requiring investigation and remediation of any potential ground contamination in order to ensure the safe occupation of the development and to protect the environment (No. 25). In the interests of ensuring the provision of inclusive parking facilities and to promote sustainable transport, conditions are necessary requiring the provision of wheelchair accessible car parking spaces, cycle parking facilities and cycle parking management details (conditions Nos. 27, 28 and 29).
124. In order to ensure the delivery of inclusive development, conditions are necessary defining the units that are to be fitted out as 'wheelchair adaptable' and the submission and the implementation of a Wheelchair Accessible or Easily Adaptable Units Marketing Strategy (conditions Nos. 30 and 31).
125. In the interests of ensuring water use efficiency and to ensure that the water supply infrastructure can cope with the additional demand, a condition is necessary requiring the submission and implementation of details of water efficiency calculations and water-consuming appliances specification (No. 32). In order to ensure that the surface water arising from the proposed development can be appropriately drained and does not either cause off-site or on-site flood risk, a condition is necessary requiring the submission of details of the proposed Sustainable Urban Drainage Scheme (No. 33).
126. In order to protect the living conditions of the future occupants of the proposed development from overheating risk, a condition is necessary requiring the submission and implementation of an overheating strategy (No. 34). In the interests of highway safety and the free flow of traffic and to promote 'healthy streets', conditions are necessary requiring the submission and implementation of a Deliveries and Servicing Plan, the detailed design of accesses on The Highway and the submission and implementation of a Nightclub Travel Management Plan (conditions Nos. 35, 39 and 44).
127. In order to ensure that adequate provision is made for waste storage and collection, and to ensure the sustainable management of waste, conditions are necessary requiring the submission and implementation of a Site Waste Management Plan for each phase of the development and a Circular Economy Statement and Operational Waste Management Strategy (conditions Nos. 36 and 41).
128. Also, in the interests of protecting the character and appearance of the area by ensuring the provision of a less cluttered public realm, a condition is necessary requiring the consideration of street lighting to be attached to the face of the proposed buildings (No. 37). In the interests of ensuring the safe occupancy of the proposed development, a condition is necessary requiring the submission and implementation of security measures to be incorporated into the development (No. 38).

129. To ensure that adequate provision is made for digital connectivity, a condition is necessary requiring demonstration that the development will be provided with adequate ducting space for full fibre connectivity (No. 40). In the interests of promoting economic development and to ensure that commercial units are not left vacant, a condition requiring the submission and implementation of a commercial unit marketing strategy is necessary (No. 43). Conditions are necessary to ensure that any archaeological remains are investigated, recorded, and preserved (conditions Nos. 46 and 47).
130. In order to protect the living conditions of the future occupants of the residential part of the development from unacceptable noise, conditions are necessary requiring the submission and implementation of a noise mitigation scheme for external transportation noises and external noise without a specific character, details of window design with associated acoustic testing and verification, and setting noise limits on the operation of mechanical plant and equipment with associated acoustic testing and verification (conditions Nos. 48 and 49). For the same reasons, conditions are necessary to set noise level limits on the operation of continuously operated mechanical ventilation/cooling systems within habitable rooms and to provide opening hours for non-music led events in the replacement photography/filming studios and nightclub (conditions Nos. 50 and 51).
131. In accepting that the Appellant's approach to the calculation basis and consideration of noise impact from the operation of the nightclub is preferable, as set out earlier in this decision, a condition is necessary requiring the submission and implementation of a music noise and vibration mitigation scheme(s) in relation to emissions from the nightclub. Such scheme also includes the risk of airborne and structure borne transmission together with aspirational internal music event noise criteria and testing (No. 52). This condition is necessary to protect the living conditions of the future occupants of the residential part of the development from unacceptable noise and ensure the future operation of the nightclub in accordance with the 'Agent of Change Principle'.
132. Similarly, to also protect the living conditions of the future occupants of the residential part of the development from unacceptable noise, a condition is necessary requiring a noise mitigation scheme(s) in relation to music and other associated amplified noise emissions from Tobacco Dock (No.53). This condition also protects the venue in accordance with the 'Agent of Change Principle'.

Conclusion

133. There are no other considerations of such weight as to warrant a decision other than in accordance with the aforementioned Development Plan policies and the Framework. Taking these into account as a whole, for the above reasons, based on the evidence before me and all other matters raised, I conclude that the appeal should be allowed.

Stephen Normington

INSPECTOR

ANNEX A

APPEARANCES

FOR THE APPELLANT

Simon Bird KC

Instructed by Emma Penson of
DWD LLP

He called

Clive Bentley BSc (Hons), CIEH,
MIEnvSc, MIOA, CEnv, CSci

Acoustic Consultant and Partner,
Sharps Acoustics LLP

Andrew Sturt BEng (Hons), CEng,
MCIBSE

Associate Director, Silcock
Dawson and Partners

Emma Penson BSc (Hons), MSc,
MRICS, MRTPI

Partner DWD LLP

FOR THE LONDON BOROUGH OF TOWER HAMLETS

Hugh Flanagan

Instructed by Astrid Patel,
Senior Planning Lawyer,
London Borough of Tower Hamlets

He called

Nigel Burton BSc, MSc, MIOA, ANC

Director, Temple Group Limited

Mike Ibbott MA, MPhil, MBA, MRTPI,
PIEMA

Director, TP Bennett

ANNEX B**LIST OF DOCUMENTS SUBMITTED DURING THE INQUIRY**

Inquiry Document (ID)	Description of Document	Date Submitted
ID1	Opening Submissions on behalf of the Appellant	25.07.2023
ID2	Opening Submissions on behalf of the London Borough of Tower Hamlets	25.07.2023
ID3	Certificate of Lawful Development dated 11 November 2022, Tobacco Dock, 50 Porters Walk, London E1W 2SF and Delegated Planning Decision Report	27.07.2023
ID4	Updated Schedule of Draft Noise Conditions	27.07.2023
ID5	Updated CIL Compliance Statement	28.07.2023
ID6	Updated Plans List	28.07.2023
ID7	Updated copy of draft planning obligation	28.07.2023
ID8	Closing submissions on behalf of the London Borough of Tower Hamlets	28.07.2023
ID9	Closing submissions on behalf of the Appellant	28.07.2023

ANNEX C**LIST OF DOCUMENTS REQUESTED BY THE INSPECTOR AND SUBMITTED AFTER THE CLOSE OF THE ORAL SESSIONS OF THE INQUIRY**

Inquiry Document (ID)	Description of Document	Date Submitted
ID10	Final schedule of planning conditions	14.08.2023
ID11	Completed signed copy of the s106 planning obligation	14.08.2023
ID12	Updated CIL compliance schedule	14.08.2023

ANNEX D**CORE DOCUMENTS (CD)**

CD1 – Inquiry Documents	
1.1	Statement of Common Ground – Overarching
1.2	Statement of Common Ground - Noise
1.3	Draft S106 Agreement
1.4	Appellant’s Statement of Case, prepared by DWD
1.5	Statement: Noise assessment update following refusal of planning permission prepared by Sharps Acoustics
1.6	Summary of Engagement with Studio Spaces
1.7	Draft Night Club Noise Management Plan signed by Studio Spaces - February 2023
1.8	A Lower Ground Floor plan of Unit 1 and Unit 2, showing the proposed layout of the nightclub (Ref. 2253-LP06A)
1.9	Overlay plan showing the relationship between Unit 1 and Unit 2 and the Ground Floor
1.10	Studio Spaces (E1 Nightclub) Current Licence – Variation granted 1st August
1.11	Council’s Statement of Case

CD2 – Proofs of Evidence	
2.1	Emma Penson (Planning), DWD (Appellant)
2.2	Clive Bentley and Doug Sharps (Acoustics), Sharps Acoustics (Appellant)
2.3	Andrew Sturt (Ventilation), Silcock Dawson (Appellant)
2.4	Mike Ibbott (Planning), tb bennett (Council)
2.5	Nigel Burton (Acoustics), Temple Group (Council)

CD3 – Documents associated with Application Decision including pre-application advice, correspondence during determination period with LBTH and GLA and Development Committee	
3.1	Copies of all written pre- application advice prepared by LBTH and GLA prior to application submission: LBTH dated 08 December 2020

	LBTH dated 03 February 2021 LBTH dated 16 April 2021 LBTH dated 15 June 2021 LBTH dated 30 July 2021 GLA dated 28 April 2021
3.2	Noise Advice Note, prepared by BY's consultant Sharps Acoustics (pre-application stage report)
3.3	Response from LBTH's external noise specialist (Dani Fiumicelli) on above
3.4	Response from LBTH's external noise specialist (Dani Fiumicelli) on Sharps Acoustics November 2021 Report
3.5	GLA Stage 1 Report
3.6	LBTH Development Committee Report 09/2022
3.7	LBTH Equalities Impact Assessment
3.8	LBTH Development Committee Meeting Supplemental Agenda 06/09/2022
3.9	LBTH Development Committee Update Report 06/09/2022
3.10	Studio Spaces solicitor's response to opening hours condition 06/09/2022
3.11	Development Committee Minutes 06/09/2022
3.12	GLA Stage 2 Report 17/10/2022
3.13	Decision Notice of Application Reference: PA/21/02513 05/12/2022
3.14	LBTH email correspondence between planning officer, environmental health officer and acoustic consultant, just prior to the Development Committee, on noise conditions/ obligations. September 2022

CD4 – Planning application drawings used in the determination of the Appeal Application (corresponds with list at paragraph 7.2 of Statement of Common Ground)

4.1	• Site Location Plan (ref: 253-X01-B) • Existing Site Plan Showing Demolition (ref: 2253-X02-C) • Ground Floor Plan as Existing with Topo Overlay (ref: 2253-X03-B) • Existing Elevations (ref: 2253-X04-A) • Proposed Site Plan (ref: 2253-P01-A) • Block Plan showing Pedestrian Public Realm (ref: 2253-P02-E) • Block Plan showing Separation Distances (ref: 2253-P03-D) • Proposed Hard Landscaping Plan (ref: 2253-P04-G) • Proposed Lower Ground Floor Plan (ref: 2253-P06-AB) • Proposed Ground Floor Plan (ref: 2253-P07-AF) • Proposed First Floor Plan (ref: 2253-P08-W) • Proposed Second Floor Plan (ref: 2253-P09-W) • Proposed Third Floor Plan (ref: 2253-P10-V) • Proposed Fourth Floor Plan (ref: 2253-P11-X) • Proposed Fifth Floor Plan (ref: 2253-P12-W) • Proposed Sixth Floor Plan (ref: 2253-P13-R) • Proposed Seventh Floor Plan (ref: 2253-P14-U) • Proposed Roof Plan (ref: 2253-P16-Q) • Proposed Sections (ref: 2253-P18-N) • Proposed Elevations (ref: 2253-P19-O) • Proposed Elevations (ref: 2253-P20-Q) • Proposed Elevations (ref: 2253-P21-N) • Proposed Elevations (ref: 2253-P22-M) • Proposed Elevations (ref: 2253-P23-H) • Materials & Elevation Details – Key Elevations (ref: 2253-P24-B) • Proposed Material Details Sheet 1 of 4 (ref: 2253-P25-A) • Block A&B Plans Unit Types V & W (ref: 2253-P45-B) • Fire Strategy Sheet 1 of 10 (ref: 2253-P50-C) • Fire Strategy Sheet 2 of 10 (ref: 2253-P51-D) • Fire Strategy Sheet 3 of 10 (ref: 2253-P52-B) • Fire Strategy Sheet 4 of 10 (ref: 2253-P53-B) • Fire Strategy Sheet 5 of 10 (ref: 2253-P54-B) • Fire Strategy Sheet 6 of 10 (ref: 2253-P55-B) • Fire Strategy Sheet 7 of 10 (ref: 2253-P56-B) • Fire Strategy Sheet 8 of 10 (ref: 2253-P57-B) • Fire Strategy Sheet 9 of 10 (ref: 2253-P58-B) • Fire Strategy Sheet 10 of 10 (ref: 2253-P59-B) • Proposed Boundary Conditions (ref: 2253-P60-B) • Ground Floor Ducting Layout (ref: 210023-SDP-XX-00-DR-M-50100 Rev P1) • Lower Ground Ducting Layout (ref: 210023-SDP-XX-LG-DR-M-50100 P2) • Mechanical Services Roof Plant Layout (ref: 210023-SDP-XX-RF-DR-M-50100 P2) • Heating Schematic (ref: 210023-SDP-XX-ZZ-DR-M-50001 P1) • Proposed Elevations with Proposed Heights (ref: 2253 SK49) • Proposed Elevations with Proposed Heights (ref: 2253 SK48) • Landscape Layout (ref: 834.20.02)
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CD5 – Planning application document used in the determination of the Appeal Application (corresponds with list at paragraph 7.3 of Statement of Common Ground)	
5.1	Planning Statement prepared by DWD November 2021
5.2	Design and Access Statement prepared by Mountford Pigott Architects (ref: 2253-PGB-04-C, dated October 2021. Including the updated version of Page 102 of the Design and Access Statement – Cycle Access, as updated April 2022).
5.3	Statement of Community Involvement prepared by Your Shout October 2021
5.4	Night Time and Photography/ Filming Studio Re-Provision and Management Plan, prepared by DWD (Revision 4) July 2022
5.5	Transport Assessment (including Framework Construction Logistics Plan), prepared by Cotswold Transport Planning (Version 3) November 2021
5.6	Travel Management Plan – Night- Time and Photography/ Filming Studio Venue, prepared by Cotswold Transport Planning November 2021
5.7	Noise assessment for proposed mixed use development, prepared by Sharps Acoustics plus supplemental and updated letter provided by RMP during determination period - November 2021 and 16 August 2022
5.8	Energy Assessment (including Overheating Risk Assessment), prepared by Silcock Dawson & Partners (ref: 210023-SDP-XX-XX-ES-04701 Version 4) June 2022
5.9	Covering Letter, prepared by DWD (dated November 2021)
5.10	Application Form, prepared by DWD November 2021
5.11	CIL Additional Information Form, prepared by DWD November 2021
5.12	Visualisations Document, Mountford Pigott (2253-PGB-05-F) October 2021
5.13	Affordable Housing Statement (with Schedule of Accommodation by Unit, dated 28th February 2022 appended), prepared by DWD (Rev 1 dated March 2022)
5.14	Arboricultural Impact Assessment and Arboricultural Method Statement, prepared by RPS (ref:JSL3933_771) November 2021
5.15	Air Quality Assessment, prepared by RPS (ref: JAR02468) October 2021
5.16	Air Quality Neutral Assessment, prepared by RPS (ref: JAR02468) October 2021

5.17	Historic Environment (Archaeology) Desk Based Assessment, prepared by PCA (ref: R14706) October 2021
5.18	Archaeological Evaluation, prepared by PCA (ref: R14701) October 2021
5.19	Preliminary Ecology Appraisal (Biodiversity Survey), prepared by RPS (ref: ECO01680_871) February 2021
5.20	Construction & Environmental Management Plan, prepared by .Big Yellow Self Storage Company Ltd October 2021
5.21	Circular Economy Statement, prepared by Silcock Dawson & Partners (ref: 210023, Version 5) 10th August 2022
5.22	GLA Whole Life Cycle Assessment Template – Big Yellow Phase 1 (Excel Format), prepared Silcock Dawson & Partners (Version2) August 2022
5.23	GLA Whole Life Cycle Assessment Template – Residential Phase 2 (Excel Format) prepared by Silcock Dawson & Partners (Version 2) August 2022
5.24	Daylight & Sunlight Assessment: Internal Daylight, Sunlight and Overshadowing Report, prepared by GIA (ref: 15316) 7 October 2021
5.25	Daylight & Sunlight Assessment: Impact on Neighbouring Properties Report and supporting Appendices, prepared by GIA (ref: 15316 28) 28 October 2021
5.26	Drainage Strategy and Maintenance Statement including SUDs and Foul Sewage Assessment, prepared by Campbell Reith (ref: 13733 28) November 2021
5.27	Energy Assessment Emission Reporting Spreadsheet (Excel Format), prepared by Silcock Dawson & Partners (ref: v1.2_2020 (V2) June 2022
5.28	Phase 1 Be Seen Emission Reporting Spreadsheet (Excel Format), prepared by Silcock Dawson (V2) June 2022
5.29	Phase 2 Be Seen Emission Reporting Spreadsheet (Excel Format), prepared by Silcock Dawson (V2) June 2022
5.30	Fire Statement - Phase 1, prepared by Zeta Services (Version 6) July 2022
5.31	Fire Statement - Phase 2, prepared by Zeta Services (Version 6), dated July 2022)
5.32	Addendum to: Zeta Planning/Fire Statement Phase 1 & Phase 2 (November 2021) and Fire Statement Form (March 2022); prepared by Zeta Services June 2022
5.33	Fire Statement Form, prepared by Zeta Services 14th June 2022
5.34	London Plan Guidance Fire Safety Completed Template Forms, prepared by Zeta Services April 2022

5.35	Flood Risk Assessment, prepared by Campbell Reith (ref: 13733 Rev P2) November 2021
5.36	Helping Local Businesses Grow, prepared by Big Yellow Self Storage Co. Ltd (ref: 2253-PGB-08 I) November 2021
5.37	Land Quality Statement (Contamination Statement), prepared by Campbell Reith (ref: 12649 Rev P02)
5.38	Landscape Statement, prepared by Terry Anderson Landscape Architects
5.39	Lighting Impact Assessment including Lighting Plan, prepared by Silcock Dawson & Partners (ref: 210023 Version 2) 8th November 2021
5.40	Review of noise levels from events at Tobacco Dock on proposed residential use and consideration of noise mitigation options, prepared by Sharps Acoustics 15th March 2022
5.41	Scope of proposed noise survey to obtain noise levels from an event at Tobacco Dock, Wapping as they would affect a proposed residential development at 110 Pennington Street, Wapping, prepared by Sharps Acoustics 27th June 2022
5.42	Details of survey of noise from Tobacco Dock during the weekend of 27th and 28th August 2022, prepared by Sharps Acoustics [Note: Not listed on Decision Notice] 2nd September 2022
5.43	Letter by David Chapman, Robin Mackenzie Partnership (ref: L9153B-DJC0) 16th August 2022
5.44	Offices & Workspace and Affordable Workspace Provision, prepared by DWD November 2021
5.45	Phasing Letter, prepared by Campbell Reith (ref: TMps-13733-281021-BY.docx) 28th October 2021
5.46	Planning History & Existing and Former Uses, prepared by DWD November 2021
5.47	Retail & Town Centre Impact Assessment, prepared by Quod (ref: Q210412) October 2021
5.48	Development Schedule, prepared by Mountford Pigott 17th June 2022
5.49	Existing Uses - Area Schedule, prepared by DWD June 2022
5.50	Servicing and Refuse Management Plan - Residential & Commercial Use (including Waste Management), prepared by Cotswold Transport Planning (Version 6) March 2022
5.51	Servicing and Refuse Management Plan - Self Storage & Flexible Office/Workspace Use (including Waste Management), prepared by Cotswold Transport Planning (Version 5) February 2022
5.52	Sustainability Statement (including BREEAM Pre-Assessments), prepared by Silcock Dawson & Partners (ref: 210023_SDP_XX_XX_ES-04701) 3rd November 2021

5.53	Transport Technical Note: Response to GLA Stage 1 Report, prepared by Cotswold Transport Planning March 2022
5.54	Transport Technical Note, prepared by Rappor Transport Consultants (Version 4) June 2022
5.55	Travel Plan - Residential, prepared by Cotswold Transport Planning (Version 4) August 2022
5.56	Travel Plan - Self Storage & Flexible Office / Workspace, prepared by Cotswold Transport Planning (Version 3) March 2022
5.57	Townscape, Visual Impact and Heritage Assessment, prepared by Peter Stewart Consultancy October 2021
5.58	Multi-Utility Infrastructure Feasibility Assessment & Plans (Utilities Statement), prepared by SMS (ref: MPPROJ_BIG_0027_0001) October 2021
5.59	Utilities Plan to accompany Feasibility Assessment, prepared by SMS (ref: MPPROJ_TWT_0001_0001 T002) 2021
5.60	Urban Greening Factor, TALA (ref: 834.30.03)
5.61	Economic Statement, prepared by Quod (ref: Q210102, dated November 2021)
5.62	Health Impact Assessment, prepared by Quod (ref: Q210102) November 2021

CD6 – Development Plan

6.1	GLA London Plan March 2021
6.2	Tower Hamlets Local Plan 2031: Managing Growth and Sharing Benefits and associated Policies Map

CD7 – Supplementary Planning Documents and Other Documents

7.1	Planning Obligations SPD
7.2	Energy Assessment Guidance - Greater London Authority guidance on preparing energy assessments as part of planning applications June 2022
7.3	Energy Assessment Guidance - Greater London Authority guidance on preparing energy assessments as part of planning applications (Draft, now replaced by June 2022 version)
7.4	Building Regulations Approved Document F - 2010 Version and Updated 2021 Version (effective from June 2022)
7.5	Building Regulations Approved Document L - 2010 Version and Updated 2021 Version (effective from June 2022)
7.6	Building Regulations Approved Document O 2021 (effective from June 2022)

7.7	CIBSE TM59 - Design Methodology for the Assessment of Overheating Risk in Homes 2017
7.8	The Noise Policy Statement for England 2010
7.9	British Standard BS8233: 2014 – Guidance on sound insulation and noise reduction for buildings, BSI Standards Publication 2014
7.10	British Standard (BS) 4142: 2014+A1: 2019 'Methods for rating and assessing industrial and commercial sound' 2019
7.11	Institute of Environmental Management and Assessment (IEMA) Guidelines for environmental noise impact 2014
7.12	Environmental Protection Act 1990
7.13	World Health Organisation Guidelines for Community Noise (CNG) 1999
7.14	The Licensing Act 2003
7.15	World Health Organisation Night Noise Guidelines for Europe (NNGE) 2009
7.16	Environmental Noise Guidelines for the European Region (NGE) 2018
7.17	Institute of Acoustics Good Practice Guide on the Control of Noise from Pubs and Clubs - March 2003
7.18	Noise from Pubs and Clubs Final Report (NANR 92 produced for DEFRA by the University of Salford and Hepworth Acoustics and published in March 2005)
7.19	BS ISO 226:2023 'Acoustics – Normal equal-loudness-level contours' 2023
7.20	"The reverberation time of furnished rooms in dwellings", Ce 'sar Di 'az *, Antonio Pedrero, Applied Acoustics 66 - 945–956 - 2005
7.21	BS EN ISO 12354-3:2017 'Building acoustics. Estimation of acoustic performance of buildings from the performance of elements – Airborne sound insulation against outdoor sound' - 2017
7.22	"Good Practice Guide on the Control of Noise from Pubs and Clubs - Criteria and measurement guidelines", Article from IoA Bulletin (pages 12- 15). (Also referred to as "Working draft annex to the Good Practice Guide on the Control of Noise from Pubs and Clubs on "Criteria, Measurement Guidelines and other relevant information")
7.23	Defra Report "NOISE FROM PUBS AND CLUBS (PHASE II)" - 2006
7.24	BS EN ISO 16283-1:2014+A1:2017 – 'Acoustics – Field measurement of sound insulation in buildings and of building elements'

7.25	Association of Noise Consultants / Institute of Acoustics Guide to Demonstrating Compliance with the Noise Requirements of Approved Document O (v1.0) - July 2022
7.26	High Speed Two – Phase 2a Information Paper. E9: Control of Airborne Noise (Version 1.1) - February 2021
CD8 – Other relevant schemes in LBTH (Decision Notices, S106 and Deed of Easement)/ Planning History	
8.1	Address: 2 Jubilee Street, London, E1 3HE Proposal: Demolition of part of the existing buildings (to the north) containing 517sqm of floor space; retention and refurbishment of remaining existing office (665sqm) building (on southern part of site) and single storey roof extension (195sqm) to create new B1 office floor space; creation of a new build six storey (with set back top floor) residential block to the north to provide 37 dwellings (6 x studio, 15 x 1 bed, 12 x 2 bed, 2 x 3 bed, 2 x 4 bed) together with amenity areas, cycle parking and refuse/recycling stores. Ref.: PA/16/02806 (See Condition 10) Decision Notice, S106 and Deed of Easement - 24 December 2019
8.2	Address: 102-126 and 128 The Highway, London E1W 2BX Proposal: Demolition of existing petrol filling station (sui generis use class) and drive-through restaurant (A3 use class) and redevelopment of site to provide buildings ranging in height from 5-7 storeys, comprising 80 residential dwellings (C3 use class) and 587sqm (GIA) commercial floorspace (flexible A1/A2/A3/A4/B1/D1/D2 use classes) plus associated servicing, parking and refuse stores, amenity space and public realm enhancement. Refurbishment of existing public house (302sqm). Ref.: PA/19/00559/A1 Decision Notice and S106 (Deed of Easement included in S106) - 29 July 2022
8.3	Address: Unit 2, 110 Pennington Street, E1 Proposal: Conversion of part (65%) of ground floor unit to wine bar/nightclub and new shop front. Ref.: PA/99/00076 Decision Notice - 07 June 1999
CD9 – Third Party Representations received by the Planning Inspectorate	
9.1	Letter of representation prepared by RPS on behalf of Al Mubarakia Ltd 1. (adjacent landowner) - 11 May 2023

ANNEX E: SCHEDULE OF CONDITIONS

- 1) The development hereby permitted shall begin not later than 3 years from the date of this decision.
- 2) The development shall be carried out in accordance with the approved drawings listed below.

Plans

- Site Location Plan (ref: 253-X01-B)
- Existing Site Plan Showing Demolition (ref: 2253-X02-C)
- Ground Floor Plan as Existing with Topo Overlay (ref: 2253-X03-B)
- Existing Elevations (ref: 2253-X04-A)
- Proposed Site Plan (ref: 2253-P01-A)
- Block Plan showing Pedestrian Public Realm (ref: 2253-P02-E)
- Block Plan showing Separation Distances (ref: 2253-P03-D)
- Proposed Hard Landscaping Plan (ref: 2253-P04-G)
- Proposed Lower Ground Floor Plan (ref: 2253-P06-AB)
- Proposed Ground Floor Plan (ref: 2253-P07-AF)
- Proposed First Floor Plan (ref: 2253-P08-W)
- Proposed Second Floor Plan (ref: 2253-P09-W)
- Proposed Third Floor Plan (ref: 2253-P10-V)
- Proposed Fourth Floor Plan (ref: 2253-P11-X)
- Proposed Fifth Floor Plan (ref: 2253-P12-W)
- Proposed Sixth Floor Plan (ref: 2253-P13-R)
- Proposed Seventh Floor Plan (ref: 2253-P14-U)
- Proposed Roof Plan (ref: 2253-P16-Q)
- Proposed Sections (ref: 2253-P18-N)
- Proposed Elevations (ref: 2253-P19-O)
- Proposed Elevations (ref: 2253-P20-Q)
- Proposed Elevations (ref: 2253-P21-N)
- Proposed Elevations (ref: 2253-P22-M)
- Proposed Elevations (ref: 2253-P23-H)
- Materials & Elevation Details – Key Elevations (ref: 2253-P24-B)
- Proposed Material Details Sheet 1 of 4 (ref: 2253-P25-A)
- Proposed Material Details Sheet 2 of 4 (ref: 2253-P26-A)
- Proposed Material Details Sheet 3 of 4 (ref: 2253-P27-A)
- Proposed Material Details Sheet 4 of 4 (ref: 2253-P28-A)
- Proposed Brick Details (ref: 2253-P29-A)

- Block A Plans Unit Types A-E (ref: 2253-P40-F)
- Block A & B Plans Unit Types F-J (ref: 2253-P41-D)
- Block B & C Plans Unit Types K-N (ref: 2253-P42-D)
- Block C Plans Unit Types O-R (ref: 2253-P43-F)
- Block A & B Plans Unit Types S-U (ref: 2253-P44-E)
- Block A&B Plans Unit Types V & W (ref: 2253-P45-B)
- Fire Strategy Sheet 1 of 10 (ref: 2253-P50-C)
- Fire Strategy Sheet 2 of 10 (ref: 2253-P51-D)
- Fire Strategy Sheet 3 of 10 (ref: 2253-P52-B)
- Fire Strategy Sheet 4 of 10 (ref: 2253-P53-B)
- Fire Strategy Sheet 5 of 10 (ref: 2253-P54-B)
- Fire Strategy Sheet 6 of 10 (ref: 2253-P55-B)
- Fire Strategy Sheet 7 of 10 (ref: 2253-P56-B)
- Fire Strategy Sheet 8 of 10 (ref: 2253-P57-B)
- Fire Strategy Sheet 9 of 10 (ref: 2253-P58-B)
- Fire Strategy Sheet 10 of 10 (ref: 2253-P59-B)
- Proposed Boundary Conditions (ref: 2253-P60-B)
- Ground Floor Ducting Layout (ref: 210023-SDP-XX-00-DR-M-50100 Rev P1)
- Lower Ground Ducting Layout (ref: 210023-SDP-XX-LG-DR-M-50100 P2)
- Mechanical Services Roof Plant Layout (ref: 210023-SDP-XX-RF-DR-M-50100 P2)
- Heating Schematic (ref: 210023-SDP-XX-ZZ-DR-M-50001 P1)
- Proposed Elevations with Proposed Heights (ref: 2253 SK49)
- Proposed Elevations with Proposed Heights (ref: 2253 SK48)
- Landscape Layout (ref: 834.20.02)

Notwithstanding, the mezzanine floors shown on the above referenced plans are for illustrative purposes only and do not form part of the development hereby approved.

Documents

- Covering Letter, prepared by DWD (dated November 2021)
- Application Form, prepared by DWD (dated November 2021)
- CIL Additional Information Form, prepared by DWD (dated November 2021)
- Design and Access Statement, prepared by Mountford Pigott (ref: 2253-PGB-04-C, dated October 2021. Including the updated version of Page 102 of the Design and Access Statement – Cycle Access, as updated April 2022.

- Visualisations Document, Mountford Pigott (2253-PGB-05-G)
- Planning Statement, prepared by DWD (dated November 2021)
- Affordable Housing Statement (with Schedule of Accommodation by Unit, dated 28th February 2022 appended), prepared by DWD (Rev 1 dated March 2022)
- Arboricultural Impact Assessment and Arboricultural Method Statement, prepared by RPS (ref:JSL3933_771)
- Air Quality Assessment, prepared by RPS (ref: JAR02468)
- Air Quality Neutral Assessment, prepared by RPS (ref: JAR02468)
- Historic Environment (Archaeology) Desk Based Assessment, prepared by PCA (ref: R14706)
- Archaeological Evaluation, prepared by PCA (ref: R14701)
- Preliminary Ecology Appraisal (Biodiversity Survey), prepared by RPS (ref: ECO01680_871)
- Construction & Environmental Management Plan, prepared by Big Yellow Self Storage Company Ltd, (dated October 2021)
- Circular Economy Statement, prepared by Silcock Dawson & Partners (ref: 210023, Version 5, dated 10th August 2022)
- GLA Whole Life Cycle Assessment Template – Big Yellow Phase 1 (Excel Format), prepared Silcock Dawson & Partners (Version2, dated August 2022)
- GLA Whole Life Cycle Assessment Template – Residential Phase 2 (Excel Format) prepared by Silcock Dawson & Partners (Version 2, dated August 2022)
- Daylight & Sunlight Assessment: Internal Daylight, Sunlight and Overshadowing Report, prepared by GIA (ref: 15316, dated 7th October 2021)
- Daylight & Sunlight Assessment: Impact on Neighbouring Properties Report and supporting Appendices, prepared by GIA (ref: 15316 28, dated 28th October 2021)
- Drainage Strategy and Maintenance Statement including SUDs and Foul Sewage Assessment, prepared by Campbell Reith (ref: 13733 28, dated November 2021)
- Energy Assessment (including Overheating Risk Assessment), prepared by Silcock Dawson & Partners (ref: 210023-SDP-XX-XX-ES-04701 Version 4, dated 7th June 2022)
- Energy Assessment Emission Reporting Spreadsheet (Excel Format), prepared by Silcock Dawson & Partners (ref: v1.2_2020 (V2), dated June 2022)
- Phase 1 Be Seen Emission Reporting Spreadsheet (Excel Format), prepared by Silcock Dawson (V2), dated June 2022
- Phase 2 Be Seen Emission Reporting Spreadsheet (Excel Format), prepared by Silcock Dawson (V2), dated June 2022
- Fire Statement - Phase 1, prepared by Zeta Services (Version 6, dated

July 2022)

- Fire Statement - Phase 2, prepared by Zeta Services (Version 6), dated July 2022)
- Addendum to: Zeta Planning/Fire Statement Phase 1 & Phase 2 (November 2021) and Fire Statement Form (March 2022); prepared by Zeta Services, June 2022
- Fire Statement Form, prepared by Zeta Services, (dated 14th June 2022)
- London Plan Guidance Fire Safety Completed Template Forms, prepared by Zeta Services, (dated April 2022)
- Flood Risk Assessment, prepared by Campbell Reith (ref: 13733 Rev P2, dated November 2021)
- Helping Local Businesses Grow, prepared by Big Yellow Self Storage Co. Ltd (ref: 2253-PGB-08 I, dated November 2021)
- Land Quality Statement (Contamination Statement), prepared by Campbell Reith (ref: 12649 Rev P02, dated November 2021)
- Landscape Statement, prepared by Terry Anderson Landscape Architects
- Lighting Impact Assessment including Lighting Plan, prepared by Silcock Dawson & Partners (ref: 210023 Version 2, dated 8th November 2021)
- Night Time Venue and Photography/ Filming Studio - Re-Provision and Management Plan, prepared by DWD (Revision 4, dated July 2022)
- Travel Management Plan - Night Time & Photography / Filming Studio Venue, prepared by Cotswold Transport Planning (Version 3, dated November 2021)
- Noise Assessment for proposed mixed use development, prepared by Sharps Acoustics, (dated 3rd November 2021)
- Review of noise levels from events at Tobacco Dock on proposed residential use and consideration of noise mitigation options, prepared by Sharps Acoustics, (dated 15th March 2022)
- Scope of proposed noise survey to obtain noise levels from an event at Tobacco Dock, Wapping as they would affect a proposed residential development at 110 Pennington Street, Wapping, prepared by Sharps Acoustics, (dated 27th June 2022)
- Details of survey of noise from Tobacco Dock during the weekend of 27th and 28th August 2022, prepared by Sharps Acoustics, dated 2nd September 2022
- Letter by David Chapman, Robin Mackenzie Partnership (ref: L9153BDJC0, dated 16th August 2022)
- Offices & Workspace and Affordable Workspace Provision, prepared by DWD (dated November 2021)
- Phasing Letter, prepared by Campbell Reith (ref: TMps-13733-281021- BY.docx, dated 28th October 2021)

- Planning History & Existing and Former Uses, prepared by DWD (dated November 2021)
 - Retail & Town Centre Impact Assessment, prepared by Quod (ref: Q210412, dated October 2021)
 - Development Schedule, prepared by Mountford Pigott, (dated 17th June 2022)
 - Existing Uses - Area Schedule, prepared by DWD, (document dated June 2021 and submitted to LBTH June 2022)
 - Statement of Community Involvement, prepared by Your Shout, (dated October 2021)
 - Servicing and Refuse Management Plan - Residential & Commercial Use (including Waste Management), prepared by Cotswold Transport Planning (Version 6, dated March 2022)
 - Servicing and Refuse Management Plan - Self Storage & Flexible Office/Workspace Use (including Waste Management), prepared by Cotswold Transport Planning (Version 5, dated February 2022)
 - Sustainability Statement (including BREEAM Pre-Assessments), prepared by Silcock Dawson & Partners (ref: 10023_SDP_XX_XX_ES-04701, dated 3rd November 2021).
 - Transport Assessment (including Framework Construction Logistics Plan), prepared by Cotswold Transport Planning (Version 3, dated November 2021)
 - Transport Technical Note: Response to GLA Stage 1 Report, prepared by Cotswold Transport Planning (dated March 2022)
 - Transport Technical Note, prepared by Rappor Transport Consultants (Version 4, dated June 2022)
 - Travel Plan - Residential, prepared by Cotswold Transport Planning (Version 4, dated August 2022)
 - Travel Plan - Self Storage & Flexible Office / Workspace, prepared by Cotswold Transport Planning (Version 3, dated March 2022)
 - Townscape, Visual Impact and Heritage Assessment, prepared by Peter Stewart Consultancy (dated October 2021)
 - Multi-Utility Infrastructure Feasibility Assessment & Plans (Utilities Statement), prepared by SMS (ref: MPPROJ_BIG_0027_0001)
 - Utilities Plan to accompany Feasibility Assessment, prepared by SMS (ref: MPPROJ_TWT_0001_0001 T002)
 - Urban Greening Factor, TALA (ref: 834.30.03)
 - Economic Statement, prepared by Quod (ref: Q210102, dated November 2021)
 - Health Impact Assessment, prepared by Quod (ref: Q210102, dated November 2022)
- 3) The development shall be delivered in two Phases, in accordance with the phasing plans reference 2253-P32-B, P33-B, P34-B, P35-C, P36-C and P37-C appended to the Campbell Reith Phasing Letter dated

28th October 2021, to ensure continuous provision of the self-storage facility and the existing sui generis nightclub/photography and filming studio venue use, as follows:

- a) Phase 1: Demolition of the existing building on the western part of the site. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexoffice/workspace accommodation (Use Class E) and ancillary works.
 - b) Phase 2: Demolition of the existing building on the eastern part of the site. Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/business/service units (Use Class E) and nightclub/photography and filming studio venue (sui generis) and ancillary works.
- 4) Demolition, building, engineering or other operations associated with the construction of the development (including arrival, departure and loading and unloading of construction vehicles):
- a) Shall be carried out in accordance with the Tower Hamlets Code of Construction Practice.
 - b) Shall only be carried out between the hours of 08:00 and 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. No works shall take place on Sundays and Public Holidays.
 - c) Shall ensure that ground-borne and/or structure-borne vibration shall not exceed 1.0mm/s peak particle velocity (PPV) at residential and 3.0mm/s PPV at commercial properties neighbouring the site.
 - d) Shall be undertaken to ensure that noise levels measured 1 metre from the façade of any occupied building neighbouring the site shall not exceed 75dB(A) at residential and commercial properties, and 65dB(A) at schools and hospitals (LAeq,T where T = 10 hours Monday to Friday and 5 hours for Saturday).
- 5) No development in respect of each Phase of the development shall take place, including any works of demolition, until a Construction Environmental Management and Logistics Plan for that Phase has been submitted to and approved in writing by the Local Planning Authority.
- The plans shall aim to minimise the amenity, environmental and road network impacts of the demolition and construction activities and include the details of:
- a) Telephone, email and postal address of the site manager and details of complaints procedures for members of the public;
 - b) Measures to manage the disposal/storage of waste and storage of construction plant and materials;
 - c) Scheme for recycling/disposition of waste resulting from demolition and construction works;
 - d) Ingress and egress to and from the site for vehicles;

- e) Safeguarding of buried services;
- f) Proposed numbers and timing of vehicle movements through the day and the proposed access routes, delivery scheduling, use of holding areas, logistics and consolidation centres;
- g) Parking of vehicles for site operatives and visitors;
- h) Travel plan for construction workers;
- i) Construction lighting and times of use, not to unduly impact on neighbouring amenity;
- j) Location and size of site offices, welfare and toilet facilities;
- k) Erection and maintenance of security hoardings including details of any decorative displays and facilities for public viewing;
- l) Measures to ensure that pedestrian access past the site is safe and not obstructed;
- m) Measures to minimise risks to pedestrians and cyclists, including but not restricted to accreditation of the Fleet Operator Recognition Scheme (FORS) and use of banksmen for supervision of vehicular ingress and egress.
- n) Mitigation and monitoring measures to prevent and remedy ground, noise and air pollution.

The development shall not be carried out other than in accordance with the approved details.

- 6) No superstructure works in respect of each Phase of the development on the site shall take place until samples and full particulars of all external facing materials to be used in the construction of that Phase of the development have been submitted to and approved in writing by the Local Planning Authority.

Details submitted pursuant to this condition shall include but are not restricted to:

- a) Mock-up panels of no less than 1m by 1m of each external cladding material. Details of external cladding, where relevant, shall include all types of brick or other cladding material to be used, details of bond, mortar and pointing for brick and details of joints, panel sizes and fixing method for other types of cladding. If an off-site manufactured cladding system is to be used, the full details of the system shall be provided and the mock-up panel shall include at least one junction between pre-assembled panels.
- b) Samples and drawings of fenestration.
Details of fenestration, where relevant, shall include reveals, sills and lintels. Drawings shall be at a scale of no less than 1:20.
- c) Drawings and details of entrances.
Details of entrances, where relevant, shall include doors, reveals, canopies, signage, entry control, post boxes, CCTV, lighting and soffit finishes. Drawings shall be at a scale of no less than 1:20.
- d) Drawings and details of shopfronts.

Details of shopfronts, where relevant, shall include doors, glazing, reveals, stallrisers, pilasters, fascias, awnings and signage zones or indicative signage. Drawings shall be at a scale of no less than 1:20.

- e) Details and samples of roofing.
- f) Details of any balconies, terraces or wintergardens and associated balustrades, soffits and drainage.
- g) Details of any external rainwater goods, flues, grilles, louvres and vents.
- h) Details of any external plant, plant enclosures and safety balustrades.
- i) A green procurement plan for sourcing the proposed materials. The green procurement plan shall demonstrate how the procurement of materials for the development will promote sustainability, including through the use of low impact, sustainably sourced, reused and recycled materials and the reuse of demolition waste.

The development shall not be carried out other than in accordance with the approved details.

- 7) No development shall take place in respect of Phase 1 of the development until the three existing trees on the adjoining highway land (The Highway) have been protected in accordance with British Standard 5837 – 'Trees in Relation to Construction Sites'.

The tree protection measures shall be retained in place for the duration of the construction works for that Phase and during this period no works other than landscaping works shall be carried out or materials stored within the protected areas underneath the trees.

- 8) Prior to completion of Phase 2 of the development hereby approved, full details of the proposed tree planting comprising of 4 semimature trees on The Highway and tree planting within the landscaped decks shall be submitted to and approved in writing by the Local Planning Authority. This shall include planting and maintenance specifications, including cross-section drawings, use of guards or other protective measures and confirmation of location, species and sizes, nursery stock type, supplier and defect period. All tree planting shall be carried out no later than during the first planting season following practical completion of the development and retained for the lifetime of the development.

Any trees that are found to be dead, dying, severely damaged or diseased within five years of the completion of the building works or five years of the carrying out of the landscaping scheme (whichever is later), shall be replaced in the next planting season by specimens of similar size and species in the first suitable planting season.

- 9) No superstructure works in respect of each Phase of the development on the site shall take place until a landscaping scheme for that Phase has been submitted to and approved in writing by the Local Planning Authority. The landscaping schemes for each Phase shall ensure achievement of the Urban Greening Factor scores of 0.190 (Phase 1)

and target 0.439 but achieve no less than 0.4 (Phase 2) as set out on the submitted UGF drawing 834.30.03.

The scheme shall include details of the following, where relevant to that part of the scheme:

- a) Hard landscaping including ground surfaces, kerbs and planter enclosures.
- b) Soft landscaping including number, size, species and location of plants.
- c) Provisions for communal gardening.
- d) On-going five year maintenance and watering provisions for soft landscaping.
- e) Lighting including light spill drawings and proposed lux levels.
- f) Biodiversity features.
- g) Sustainable urban drainage features.
- h) Drain covers, manholes and covers for access to drainage and utilities.
- i) Play equipment and playable landscape features.
- j) Railings, walls and other means of enclosure.
- k) Bollards, gates and other access control measures.
- l) Furniture including benches and litter bins.
- m) CCTV and other security measures.
- n) Ground levels, gradients, thresholds and inclusive access provisions.
- o) External cycle parking stands.
- p) Signage and wayfinding measures.

The landscaping scheme shall be completed in accordance with the approved details no later than during the first planting season following practical completion of the relevant Phase of the development and retained for the lifetime of the development.

Any trees or shrubs which die, are removed or become seriously damaged or diseased within five years from the completion of the landscaping works shall be replaced in the next planting season with the same species or an approved alternative as agreed in writing by the Local Planning Authority.

- 10) Prior to completion of superstructure works in respect of each Phase of the development, full details of biodiversity mitigation and enhancements for that Phase shall be submitted to and approved in writing by the Local Planning Authority. Such details shall demonstrate that a biodiversity net gain will be achieved over the two Phases. The biodiversity enhancements shall include, where relevant to that Phase of the development, but not be limited to the following:
 - a) Biodiverse roofs designed in accordance with 'Creating Green Roofs for Invertebrates' best practice guide by Buglife – details provided

should include the location and total area of biodiverse roofs, substrate depth and type, planting including any vegetated mat or blanket (though sedum mats should be avoided if possible) and any additional habitats to be provided such as piles of stones or logs.

- b) 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.
- c) Climbing plants, including ivy, honeysuckle and jasmine, on appropriate walls to provide a further source of nectar and cover for nesting birds such as house sparrows. Details to include species and locations of climbers.
- d) Bat boxes, insect boxes and nest boxes for appropriate bird species including house sparrow, swift and black redstart. Details should include number, locations and type of boxes.
- e) Details of maintenance provisions for all of the above.

The biodiversity improvement measures shall be completed in accordance with the approved details prior to the first occupation of the relevant Phase of the development and retained and maintained in accordance with the approved maintenance provisions for the lifetime of the development.

- 11) Unit 1 and Unit 2 shall only be used as a photography and filming studios and replacement nightclub (sui generis use class) and shall be used for no other purpose (including any other purpose in the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that Order with or without modification, unless otherwise agreed in writing by the Local Planning Authority.
- 12) The self-storage floorspace within Phase 1 shall only be used as a "self-storage facility" (Use Class B8) and the offices/ workspace within Phase 1 shall only be used as Use Class E(g). The floorspace shall be used for no other purpose (including any other purpose in the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification, unless otherwise agreed in writing by the Local Planning Authority.
- 13) Units 3, 4, 5 and 6 within Phase 2 shall be used as Use Class E (a, c, d, e, f, g) and shall be used for no other purpose (including any other purpose in the Town and Country Planning (Use Classes) Order 1987 (as amended), or in any provision equivalent to that class in any statutory instrument revoking and re-enacting that order with or without modification, unless otherwise agreed in writing by the Local Planning Authority.

- 14) Prior to the completion of superstructure works for Phase 2, in order to ensure social cohesiveness and access of communal amenity and play areas for all residential occupants, including disabled users, an Inclusive Communal Amenity and Play Spaces Management Plan shall be submitted to and approved in writing by the Local Planning Authority
The communal amenity and play spaces shall be completed prior to occupation of the residential unit and shall be operated in accordance with the approved management plan and thereafter retained in this form for the lifetime of the development.
- 15) No plant, water tanks, water tank enclosures, air conditioning units or other structures other than those shown on the approved plans shall be erected upon the roofs of the buildings hereby permitted unless details are otherwise submitted to and approved in writing by the Local Planning Authority.
- 16) No externally mounted roller shutters shall be installed on any shopfront, commercial entrance or display façade hereby approved.
- 17) No new plumbing, pipes, soil stacks, flues, vent grilles or ductwork shall be fixed on the external faces of the building other than those shown on the drawings hereby approved unless details are otherwise submitted to and approved in writing by the Local Planning Authority.
- 18) For the lifetime of the development, the external glazed surface areas to the ground floor frontages of the development, including the shop fronts hereby approved, shall be maintained wholly transparent, shall not be mirrored, painted or otherwise obscured by blanket window transfers placed on the glazing unless as otherwise shown on the drawings hereby approved or details are submitted to and approved in writing by the Local Planning Authority.
- 19)
 - a) The development shall be carried out in accordance with the approved energy strategy (Silcock Dawson & Partners – June 2022). The energy efficiency and sustainability measures relevant to each Phase set out herein shall be completed prior to the first occupation of that Phase or part of a Phase of the development and retained for its lifetime.
 - b) the development shall achieve regulated carbon dioxide emission savings of no less than 64% against the site wide Target Emissions Rate of Part L of Building Regulations (2013) with SAP10 carbon factors with each Phase as follows as follows:
 - i Phase 1 – 92%
 - ii Phase 2 non residential units – 33%
 - iii Phase 2 residential accommodation – 61%
 - c) the photovoltaic array system for Phase 1 shall be installed prior to the first occupation of the building and have an output of no less than

181 kWp for the self-storage-led building and be retained for the lifetime of the development.

- d) the photovoltaic array system for Phase 2 shall be installed prior to the first occupation of any residential units and have an output of no less than 31.4 kWp for the residential-led building and be retained and maintained thereafter in full effective operational condition for the lifetime of the development.
 - e) the self-storage led building (Phase 1) shall achieve compliance with at least the 'Excellent' BREEAM standard. The non-residential units within Phase 2, which will be delivered as shell and core shall achieve compliance with at least the 'Very Good' BREEAM standard. Within 3 months of first occupation of the relevant part of the development the applicant shall submit the final BREEAM certificate to demonstrate the scheme has achieved the relevant BREEAM rating which shall be certified by the awarding body.
 - f) 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.
 - g) prior to occupation of each Phase or part of a Phase of the development a post completion verification report (including the 'as built' calculations for that Phase or part of a Phase) shall 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.
- 20) Prior to the occupation of each Phase of the development hereby permitted, details of any aerials and satellite dishes to be erected during that Phase shall be submitted and approved in writing by the Local Planning Authority. Thereafter the external aerials, antennae, satellite dishes or related telecommunications equipment that has been expressly approved shall be retained as approved for the lifetime of the development.
- Notwithstanding the provisions of the Town and Country Planning (General Permitted Development (England) Order 2015 (or any order revoking or re-enacting that principal order with or without modification), no additional external aerials, antennae, satellite dishes or related telecommunications equipment shall be erected on any part of the development hereby permitted, without planning permission first being obtained.
- 21) In respect of each Phase of the development, no piling for that Phase shall take place until a Piling Method Statement (detailing the depth, location 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.

The development shall not be carried out other than in accordance with the approved details.

- 22) Prior to the commencement of each Phase of the development, other than demolition, hereby permitted, full details of all mechanical systems including, but not limited to, heating, cooling, controls, fire systems, means of escape, ventilation/extraction or other associated plant equipment, for that Phase, including their ongoing maintenance, shall be submitted to and approved in writing by the Local Planning Authority.

The mechanical systems shall ensure appropriate air quality through either:

- Air intake from a location guaranteeing supply of clean air; or
- Treating polluted air and removing pollutants.

The mechanical systems shall be designed to minimise energy usage, minimise disturbance to occupiers and be sufficient to prevent summer overheating.

The submitted details shall include full calculations for heating, cooling and ventilation, equipment data sheets and specifications of all filtration, deodorising systems, noise output and termination points, along with full details of the routing of the mechanical ventilation and the passive provision of associated ducting including scaled plans. Particular attention shall be given to the discharge of toxic or odoriferous extract air where a high level of discharge is usually essential.

None of the residential units shall be occupied until the mechanical systems have been implemented in accordance with the approved details.

All mechanical systems shall be retained and maintained in an operational condition in accordance with the approved details for the lifetime of the development.

- 23) Prior to the commencement of each Phase of the development, a Dust Management Plan (DMP), based on an Air Quality and Dust Risk Assessment (AQDRA), for that Phase, shall be submitted to and approved, in writing, by the Local Planning Authority. The DMP shall be in accordance with The Control of Dust and Emissions During Construction and Demolition SPG (GLA 2014).

The DMP shall detail the measures to reduce the dust impacts during the construction Phase, including:

- a) Arrangements for continuous on-site PM10 monitoring during each four construction sub-phases of the proposed development (demolition, earthworks, construction, and trackout).
- b) Parameters to be monitored, duration, locations and monitoring techniques.
- c) Specification of the maximum levels of PM10 emissions that are not to be exceeded.

The development shall be undertaken in accordance with the approved DMP.

- 24) All Non-Road Mobile Machinery (NRMM) used during the course of the development that is within the scope of the Control of Dust and Emissions During Construction and Demolition SPG (GLA 2014), or any subsequent amendment or guidance, shall comply with the following emission requirements:
- a) Prior to the commencement of each Phase of the development details of all plant and machinery to be used during demolition and construction shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that all NRMM will meet the emission standards set out in IIIa of EU directive 97/68/EC for both NO_x and PM.
 - b) All Non-Road Mobile Machinery (NRMM) and plant to be used on the site of net power between 37kW and 560kW shall be registered at <http://nrmm.london/> and proof of registration submitted to the Local Planning Authority prior to the commencement of each Phase of the development.
 - c) No other NRMM machinery other than that approved under a) shall be used during the demolition and construction phases.
- 25) No works in respect of each Phase of the development shall take place (save for demolition works, site preparation, erection of fencing, laying of or provision of any services, laying of temporary surfaces and erection of temporary site buildings for construction purposes) until a remediation scheme to deal with the potential ground contamination for that Phase has been submitted to and approved in writing by the Local Planning Authority.

The scheme shall include:

- a) A preliminary risk assessment which identifies:
 - All previous uses
 - Potential contaminants associated with those uses;
 - A conceptual model of the site indicating sources, pathways and receptors; and
 - Potentially unacceptable risks arising from contamination at the site.
- b) A site investigation scheme, based on (a) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site.
- c) The results of the site investigation and detailed risk assessment referred to in (b), and, based on these, an options appraisal and remediation strategy giving full details of the remediation and mitigation measures required and how they are to be undertaken.
- d) A verification plan setting out the details of the data that will be collected in order to demonstrate that the works set out in the

remediation strategy in (c) are complete to a satisfactory standard.

- e) A monitoring and maintenance plan, setting out provisions for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

The contamination remediation works shall be carried out in accordance with the approved details and completed prior to the first occupation of the relevant part of the development. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.

If during the works any additional contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either:

- f) The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority; or
- g) Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.

Any additional land contamination shall be fully remedied prior to the first occupation of each Phase of the development.

Each Phase or part of a Phase of the development shall not be occupied until a post completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the Local Planning Authority demonstrating that the site remediation criteria have been met.

- 26) No individual flexible commercial unit (units 3-6 within Phase 2) shall exceed 200sqm gross floor area through amalgamation except with the written approval by the Local Planning Authority.
- 27)
 - a) The 2 wheelchair accessible car parking spaces in Phase 1 and the 6 in Phase 2 shown on the approved drawings shall be provided prior to the first occupation of the relevant Phase and retained for the lifetime of the development.
 - b) All 8 wheelchair spaces shall be provided with electric vehicle charging points. Passive provision of electric charging points shall be made for a further 3 car parking spaces in Phase 1 in accordance with details that shall have received the prior written approval of the Local Planning Authority. Both the charging points and passive provision shall be in place prior to the first occupation of the relevant Phase and retained for the duration of the development.
 - c) Prior to the occupation of each Phase of the development, a Car Parking Management Strategy for that Phase, setting out how car parking spaces, including wheelchair accessible spaces are allocated, shall be submitted to and approved in writing by the Local Planning Authority, such strategy to remain in operation for the duration of the development.

- d) At no time shall any other external areas of the development, save for those explicitly identified on the approved drawings, be made available for parking of motor vehicles other than to facilitate essential maintenance works.
- 28) In respect of Phase 1 of the development hereby approved, no less than 30 long stay cycle spaces and 16 visitor cycle spaces shall be provided prior to the occupation and retained thereafter in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority.
- 29) In respect of Phase 2 of the development hereby approved:
- a) Prior to the occupation of Phase 2, a Cycle Parking Management Plan (CPMP) shall be submitted to and approved by the Local Planning Authority. The CPMP shall include details of: the allocation of cycle spaces between the market and affordable housing units and other land uses; how these cycle spaces and access to cycle stores will be managed and enforced; the design and materials of cycle stands/storage; shower, changing area and locker facilities provision (for non-residential uses) and, CCTV and lighting for the cycle storage area. A minimum of 5% of long stay cycle spaces and their accesses shall be designed to be large enough to accommodate adapted cycles, cargo and other types of larger cycles.
 - b) No less than 209 long stay residential, 6 short stay residential, 5 long stay commercial and 18 short stay commercial cycle parking spaces shall be provided in accordance with details that shall have been submitted to and approved in writing by the Local Planning Authority.
 - c) The relevant Phase or part of a Phase of the development shall not be occupied until the approved cycle parking spaces have been installed and are ready for use and the approved CPMP has been implemented in full. Such spaces shall be retained thereafter for this use only by occupiers and visitors to the development and solely in accordance with the approved CPMP for the lifetime of the development.
- 30) The optional requirements of the Building Regulations 2010 (as amended) set out below shall be applied:
- a) The following residential units shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(a) 'wheelchair adaptable': Units A-4-4, B-0-4, B-1-4, B-2-4, B-3-4, B-4-4, B-5-5, B-6-4.
 - b) The following residential units shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(b) 'wheelchair accessible': Units A-1-1, A-2-1, A-3-1, A-4-1.
 - c) All other approved residential units shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable' and shall not thereafter be occupied other than in accordance therewith.

No residential unit identified in (b) above shall be fitted out, have internal partitions erected or be subject to any construction works other than shell and core works until floor layouts at a scale of no less than 1:50 and full details of fixtures and fittings (including ceiling hoists, floor gullies, automatic doors to communal entrances and any other reasonable adaptations to make the units suitable for occupation by a wheelchair user) have been submitted to and approved in writing by the Local Planning Authority. Such units shall be constructed in accordance with these approved details and retained for the lifetime of the development.

The Local Planning Authority shall be notified in writing at least 9 months prior to practical completion of the residential units identified in (b) above in order to match units to prospective occupiers on the Housing Register.

The lifts shown on the approved drawings for all of the blocks shall be installed and in an operational condition prior to the first occupation of the relevant residential access cores, and shall be retained and maintained in an operational condition for the lifetime of the development.

- 31) At least 9 months prior to completion of the first wheelchair housing units, a Wheelchair Accessible or Easily Adaptable Units Marketing Strategy shall be submitted to and approved in writing by the Local Planning Authority. The Marketing Strategy shall include measures demonstrating each wheelchair accessible/adaptable unit will be marketed to households which include wheelchair users, for a minimum of 6 months prior to completion of the unit and how the LB Tower Hamlets Housing Department will be notified. Marketing of the wheelchair housing units shall be undertaken in accordance with the approved Marketing Strategy.
- 32) The optional requirement of the Building Regulations 2010 (as amended) Part G relating to water use shall be applied, as follows: prior to commencement of superstructure works for Phase 2, a copy of the water efficiency calculator for new dwellings from Part G shall be submitted to the Local Planning Authority for each dwelling type with a unique sanitary ware and water-consuming appliances specification, demonstrating that each dwelling will achieve water use of not more than 110 litres per person per day (including a 5 litre per person per day allowance for external water use).

The installation of the approved sanitary ware and water-consuming appliances shall be carried out in accordance with the approved details and retained for the lifetime of the development.
- 33) In respect of each Phase of the development, no superstructure works shall take place until a Sustainable Urban Drainage Scheme (SUDS), including ongoing maintenance provisions, has been submitted to and approved in writing by the Local Planning Authority to ensure flood risk is not increased. The SUDS shall comprise a detailed drainage plan as

outlined in the submitted FRA and Drainage Statement restricting runoff to 2 l/s.

The approved SUDS shall be completed prior to the first occupation of each Phase or part of a Phase and thereafter maintained in operational condition for the lifetime of the development.

- 34) Prior to commencement of superstructure works of Phase 2, an overheating strategy shall be submitted to and approved in writing by the Local Planning Authority. The approved strategy shall be implemented prior to first occupation of the residential units and retained for the lifetime of the development. The strategy shall include details of the following for each of the buildings:
- a) passive measures to be included in the design to mitigate against overheating.
 - b) details of measures that would be installed to prevent overheating in common areas with communal heating pipework in line with objective 3.9 of CIBSE CP1.
 - c) details of any management strategies required to control overheating and information that will be supplied to occupants to support the strategy.
 - d) dynamic modelling, in line with CIBSE TM59, demonstrating that the measures installed are appropriate to control overheating and minimise the use of mechanical cooling.
- 35) Prior to the commencement of each Phase of development, a Deliveries and Servicing Plan shall be submitted to and approved in writing by the Local Planning Authority. In addition, a specific Deliveries and Servicing Plan shall be prepared for the nightclub/photography and filming studio venue, separate from the other uses in Phase 2.
- The deliveries and servicing of the approved uses shall not take place other than in accordance with the approved Deliveries and Servicing Plans for the lifetime of the development.
- Deliveries and servicing shall take place only between the following hours:
- 8am - 6pm Monday to Friday, 8am - 1pm Saturdays. No deliveries or servicing shall take place on Sundays and Bank Holidays.
- 36) Each Phase or part of a Phase of the development shall not be occupied until a Site Waste Management Plan for that Phase (or part of Phase) has been submitted to and approved in writing by the Local Planning Authority. This plan shall include details to demonstrate compliance with the following guidelines:
- a) Internal waste storage is to be provided for each residential unit.
 - b) Bin stores are to be built in accordance with the standards set out in the Reuse, Recycling and Waste SPD (July 2021).

- c) Measurement of bins to be provided in cubic meters to demonstrate there is sufficient space in bin stores.
- d) Sufficient door sizes with catches or stays are to be provided.
- e) The facilities are appropriately ventilated.
- f) They have a suitably robust design including walls that are fitted with rubber buffers and that any pipes/services are fitted with steel cages.
- g) They feature gates/doors with galvanised metal frames/hinges and locks.
- h) They have sufficient capacity to service the relevant building/use.
- i) They have maintenance facilities, including a wash-down tap and floor drain.
- j) All bin stores are to be free from any steps.
- k) Bulky waste storage must be in its own separate storage unit away from other waste streams.
- l) Information of dropped kerbs is to be provided and within 10m of trolleying distance from bin stores.
- m) Waste carrying distance for residents should be maximum 30 metres to the bin store.
- n) Management arrangements in place to present all waste streams including bulky waste where these are not within 10 metres trolleying distance for the waste collection operatives including all waste stored at all other levels except ground level, and;
- o) Details of how the waste collections vehicle will service this proposal including all loading and unloading areas.

The waste storage and waste collection facilities shown on approved drawings shall be provided prior to the first occupation of each Phase or part Phase of the development and shall be retained and maintained in an operational condition and made available to the occupiers of the building for the lifetime of the development.

- 37) In respect of each Phase of the development, prior to commencement of superstructure works for that Phase, a feasibility study shall be submitted to and approved in writing by the Local Planning Authority to assess whether it would be feasible to relocate street lighting on the face of the buildings hereby approved. Any street lights subsequently identified as feasible to locate on the face of buildings shall be installed prior to occupation of that Phase of the development and maintained for the lifetime of the development.
- 38) In respect of each Phase of the development, for that Phase:
 - a) No superstructure works shall take place until design details of security (sabre for Phase 1 and secured by design for Phase 2) measures have been submitted to and approved in writing by the Local Planning Authority.

- b) Full details and appropriate certificates detailing implementation of security (sabre for Phase 1 and secured by design for Phase 2) measures in line with (a), shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development.
 - c) The security measures approved shall be implemented in accordance with the approved details, completed prior to first occupation of the relevant part of the development and retained for the lifetime of the development.
- 39) Prior to commencement of Phase 1 of the development, the detailed design of the servicing access on The Highway for that Phase shall be submitted and approved in writing by the Local Planning Authority. The access shall be implemented in accordance with the approved details prior to occupation of Phase 1 and retained for the lifetime of the development.
- 40) Prior to the commencement of each Phase of development, detailed plans shall be submitted to and approved in writing by the Local Planning Authority demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure for the development. The development shall be carried out in accordance with these plans and retained for the lifetime of the development.
- 41) In respect of each Phase of the development:
 - a) No development associated with that Phase shall take place until a detailed Circular Economy Statement and Operational Waste Management Strategy for the relevant Phase, in line with the GLA's Circular Economy Statement Guidance (March 2022), has been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the details so approved.
 - b) Within 3 months of occupation of the relevant Phase (with the exception of the occupation of unit 1 and unit 2 within Phase 2), a post completion report setting out the predicted and actual performance against all numerical targets in the relevant Circular Economy Statement for that Phase shall be submitted to and approved in writing by the Local Planning Authority, along with any supporting evidence as per the GLA's Circular Economy Statement Guidance. The post completion report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting Form and Bill of Materials.
- 42) No ground floor frontages to commercial units shall be erected until design details of the frontage to that unit have been submitted to and approved in writing by the Local Planning Authority, such details to include all materials and finishes annotated on drawings at a scale of no less than 1:20 and show the frontage on plan, elevation and section drawings.

Details, where relevant, shall include doors, glazing, reveals, stallrisers, pilasters, corbels, fascias, awnings, internal security shutters and indicative signage.

The ground floor frontages to any commercial unit shall be completed in accordance with the approved details prior to its first occupation and maintained thereafter in accordance with those details for the lifetime of the development.

- 43) Prior to occupation of the flexible commercial units (Phase 2), a Flexible Commercial Units Marketing and Curating Strategy for these units shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall provide details of the types and mix of commercial uses to be sought to attract along with details of fit out to ensure that prospective occupiers are attracted to the units, details of rent breaks at occupation of units, rent level changes in relation to void periods, and pop-up, temporary usage of units in void periods.

The approved Strategy shall be used to market the units for the lifetime of the development, unless otherwise agreed in writing by the Local Planning Authority.

- 44) Prior to first operation of the replacement nightclub, a Nightclub Travel Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The plan shall be based on the Travel Management Plan - Night Time & Photography/ Filming Studio Venue (November 2021) prepared by Cotswold Transport Planning and shall provide details of taxi/minicab access arrangements, drop-off zones and security staff locations. The replacement night club shall operate in accordance with the approved plan for the lifetime of the development.

- 45) Prior to the occupation of each Phase of the development (with the exception of the occupation of Unit 1 and Unit 2 within Phase 2) the post-construction tab of the GLA's Whole Life-Cycle Carbon Assessment template, for that Phase, shall be completed in line with the GLA's Whole Life-Cycle Carbon Assessment Guidance and submitted to and approved in writing by the Local Planning Authority.

- 46) In respect of each Phase of the development, no demolition or development shall take place until an archaeological stage 1 Written Scheme of Investigation (WSI) has been submitted to and approved 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 agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the Local Planning Authority in writing. For land that is included within the stage 2 WSI, no

demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:

- a) The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works
- b) Where appropriate, details of a programme for delivering related positive public benefits
- 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 stage 2 WSI.

47) In respect of each Phase of the development, no development shall take place until details of the foundation design and a construction method to protect any archaeological remains identified through the Stage 1 or Stage 2 WSI have been submitted and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

48) a) Prior to commencement of Phase 2 of the development a noise mitigation scheme shall be submitted to and approved in writing by the Local Planning Authority in relation to:

- i) external transportation noise sources; and
- ii) external noise without specific character.

The submitted scheme shall demonstrate how the following internal noise criteria will be met within each habitable room of the residential units within the development:

Internal noise levels due to transportation sources in habitable rooms do not exceed 35 dB LAeq,16 hour, between the hours 07:00hr - 23:00hr and in bedrooms at night do not exceed both 30 dB LAeq, 8 hour and 45 dB LAFmax more than 10 times between the hours 23:00hr - 07:00hr.

The submitted scheme shall be based on the levels of transportation and general environmental noise (excluding any contributions from noise emitted from the music event activities of the nightclub on the site) documented in the Sharps Acoustics "Noise assessment for proposed mixed use development" (dated 03/11/2021). Calculations of external noise ingress to each habitable room shall be conducted in accordance with BS EN 12354-3:2017, full details of which shall be included within the submitted scheme.

- b) Prior to commencement of Phase 2 of the development written details of the window options for residential units, with associated acoustic testing (e.g. BS EN ISO 10140:2021 "Acoustics. Laboratory measurement of sound insulation of building elements – Application rule for specific products" or an equivalent and appropriate assessment) by an accredited body, or confirmation of window

performance test data, to demonstrate compliance with proposed sound reduction performances to achieve the criteria in a) above shall have been submitted to and approved in writing by the Local Planning Authority.

Such acoustic testing shall apply to the windows as a whole, inclusive of glazing, framing and sealing arrangements. The approved window options shall be installed and maintained for the lifetime of the development.

- c) Prior to occupation of the residential units a post completion verification report including acoustic test results shall be submitted and approved in writing by the Local Planning Authority confirming that the above minimum standards have been achieved.

- 49) a) Any mechanical plant and equipment within the development shall be designed and maintained for the lifetime of the development so that the rating level of noise does not exceed the typical measured background noise levels (which are 50 dB LA90,T daytime (07:00-23:00), 46 dB LA90,T night-time (23:00-07:00)) without the plant in operation as measured one metre from the nearest affected window of a habitable room in the nearest affected residential property.

The rating level of the plant noise and the background noise shall be determined using the methods from the version of BS 4142 current at the time of granting planning.

- b) Prior to the operation of any mechanical plant or equipment a post installation verification report, including acoustic test results, shall be submitted to and approved in writing by the Local Planning Authority confirming that the maximum noise standard has been achieved and that the mitigation measures are robust. Measurements close to the plant may be used (along with appropriate calculations) to demonstrate compliance. Should compliance not be demonstrated, improvement works shall be undertaken to resolve the non-compliance and a further post installation verification report submitted to the Local Planning Authority for approval in writing.

- 50) Noise levels from continuously operated mechanical ventilation and/or cooling systems within habitable rooms of the residential units within the development shall not exceed NR (Leq,5 minute) 25 dB.

- 51) The replacement photography/filming studios and nightclub shall be open to members of the public attending non-music led events only during the following times:

Monday to Saturday, 0700 to 0000

Sunday and Public Holidays, 1000 to 2300

- 52) a) Prior to commencement of Phase 2 of the development, other than demolition, a noise and vibration mitigation scheme(s) in relation to music, vibration and other associated amplified noise emissions from within the approved nightclub on-site shall be submitted to and

approved in writing by the Local Planning Authority. Full details should be provided on the mitigation to be undertaken to the approved nightclub on-site and to the residential units on-site.

The assessment shall be based on music noise with sound energy in the 63Hz octave band equal to at least 130dB, L10,5mins.

Assessment of the risk of structure borne noise transmission of entertainment and associated sources shall be presented to the Local Planning Authority to demonstrate that no risk exists or if it does, how it will be suitably mitigated. The approved mitigation shall be maintained for the lifetime of the development.

Airborne and structure borne transmission of entertainment noise (both music and other associated amplified noise) from the nightclub onsite shall not exceed the aspirational internal music event noise criteria ("the aspirational criteria") set out in Table 1 below within each habitable room of the residential units within the development.

In the event that any of the aspirational criteria cannot be met, a report shall be submitted for approval justifying each exceedance of those criteria; and details of how the base internal noise criteria ("the base criteria") set out in Table 1 will be met instead.

Table 1 – Internal noise criteria

Target limit, dB L10,5min	63 Hz	125 Hz	250 Hz	500 Hz	1000 Hz	2000 Hz	4000 Hz
Aspirational Criteria	49	37	28	21	17	14	11
Base criteria	51	39	31	24	20	17	14

- b) Inspection and testing shall be carried out during Phase 2 to confirm that the expected acoustic performance of the structure is achieved at the following milestone points:
- i. Upon completion of the nightclub shell including the installation of the frontage and prior to commencement of the nightclub fit-out.
 - ii. Upon completion of the nightclub fit-out including the installation of the sound-system and prior to the commencement of the nightclub use.
 - iii. Upon completion of the Core A & B (the East Building) apartments' shells including the installation of elements sealing the apartment's external envelope and prior to commencement of the dwelling's fit-out. (In the event that a rolling programme of external envelope installation and dwelling fit-out is adopted, inspection and testing can be staggered).

- iv. Prior to first occupation of the Core A & B (the East Building) apartments an agreed sample of five apartments shall be tested.

On completion of the inspection or testing in i to iv above, a report shall be submitted for approval to the Local Planning Authority summarising the outcome of the updated assessment with confirmation of the ability of the design of the development to meet the criteria in part a).

Where testing indicates that the requirements of part a) are not expected to be met, additional mitigation measures shall be proposed to ensure compliance is achieved.

In the event that construction sequencing is altered, an alternative programme of inspection and testing to suit the programme shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of any part of Phase 2.

- 53) Phase 2 of the development shall not commence until a noise mitigation scheme(s) in relation to music and other associated amplified noise emissions from the following Tobacco Dock, excluding Skylight Bar, has been submitted to and approved in writing by the Local Planning Authority.

The assessment shall be based on music noise with sound energy in the 63Hz octave band equal to at least 83dB, L10,5mins (free field) at the location of the closest window to a habitable room.

The approved noise mitigation measures shall be maintained for the lifetime of the development.

Entertainment noise (considered to be music and other associated amplified noise) from Tobacco Dock, excluding Skylight Bar, shall not exceed the criteria set out in the following table inside habitable rooms within dwellings:

Target limits, dB, L10,5min in each octave band							
Octave band (Hz)	63	125	250	500	1k	2k	4k
Daytime criteria	64	52	43	46	32	29	26
Night-time criteria	54	42	33	36	22	19	16