



Appeal Decision

Hearing Held on 25 January 2024

Site visit made on 8 February 2024

by Jonathon Parsons MSc BSc DipTP Cert(Urb) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 12 April 2024

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

1 Burlington Lane, London W4 2RR

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

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

Procedural Matters

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

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

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

3. Following the assessment of the appellant's revised Financial Viability Assessment (FVA)², the Council agreed that the appeal scheme cannot provide any affordable housing provision. Consequently, it no longer wishes to defend its objections on affordable housing provision, and there is no reason to differ from this view in the absence of any evidence to the contrary.
4. Prior to the hearing, the Health and Safety Executive (HSE) raised concerns to the proposal regarding fire safety. Following further information and details, HSE³ now raises no safety objections, subject to a planning condition requiring fire safety strategy and measures, including a core stairway upgrade with a lift, being imposed. As a statutory consultee advising on such matters, significant weight is attached to such a view. At the hearing, it was evident that the measures required by HSE could be conditioned and in the absence of any compelling evidence to the contrary, fire safety provision would be acceptable.
5. In its statement of case, the Council raised concerns over the provision of the accessible homes, both wheelchair/accessible and adaptable homes (building regulation Categories (M4(3) and M4(2))). The appellant's SS statement shows how accessible home provision could be made in accordance with planning policies, including London Plan (LP) 2021 Policy D7 (Accessible Housing). At the hearing, the Council raised no objections on this matter and, based on an updated illustrative plan and details, acceptable accessible home provision would be provided.
6. A section 106 agreement dated 28 February 2024 provides obligations for carbon offsetting, employment training, environment and infrastructure, early and late stage affordable housing viability reviews, transport, architect retention, district heating network safeguarding, considerate contractor scheme and monitoring. Such matters will be commented upon later in the decision.

Main Issues

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

Reasons

Living conditions of residents

Aspect

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

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

³ HSE response dated 23 November 2023.

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

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

Outlook

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

Daylight/sunlight

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

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

Ventilation/overheating and noise

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

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

- reliance on air conditioning systems is reduced in accordance with a cooling hierarchy.
22. For noise, LP Policy D13, part D, states development proposals should manage noise and other potential nuisances by ensuring good design mitigates and minimises existing and potential nuisances generated by existing uses and activities located in the area. HLP Policy CC2 requires noise (and air quality) to be mitigated in affected areas. HLP Policy EQ5 requires noise assessments, the implementation of mitigation measures in compliance with standards and guidance on noise insulation and noise reduction, and demonstration of no harm to amenity through noise from plant and machinery, including ventilation.
23. With the predominance of single aspect units and sealed window requirements of the appellant's Noise Impact Assessment (NIA)⁵, passive ventilation measures, allowing the cross flow of air from one area to another, would be limited but such measures are preferred rather than a necessity under the LP SI 4 policy hierarchy. Furthermore, a range of cooling measures under the hierarchy have been considered, including reduced solar gain through glazing, increased window reveals, overshadowing provided by balconies and heat loss through the building. There would also be the use of Mechanical Heat Recovery Units with overheating fans removing excess heat. In just 13 rooms, there would also be a requirement for air cooling systems.
24. The appellant's Overheating Study (OS)⁶ and Technical Report (TR)⁷, details that rooms would have acceptable temperature control measures, meeting the guidance of CIBSE TM59 and Part 0 of the Building Regulations 2021. In the absence of comparable evidence to the contrary, significant weight is attached to the OS and TR because they are based on a comprehensive assessment of standards, guidance and policy.
25. In summary, residents would not suffer from unacceptable overheating or noise. Whilst passive ventilation would be limited for the single aspect units, the scheme's approach follows the cooling hierarchy detailed in the LP taking into account constraints, namely the conversion of an existing building. The NIA further demonstrates plant noise would be acceptable, subject to mitigation measures, and that acceptable noise levels can be achieved within the living areas of the development. Residents would use renewable energy sources, photovoltaic roof panels and air source heat pumps, when available, for energy use including that needed for air cooling systems.

Air pollution

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

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

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

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

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

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

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

Communal External space and Children Play space provision

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

Conclusions on living conditions

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

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

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

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

Character and appearance

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

semi-circular glazed staircases. It largely matches the neighbouring hotel, but it has a repetitive blocky nature and dark/grey colouring, lack of meaningful articulation and sameness of materials. The appraisal identifies the appeal building as an early 1980s concrete and tinted glass (structure), monolithic and stained, and representing an inauspicious introduction, negative contributor to the character of the Conservation Area. Despite its corner location at the junction of two arterial roads, its design has failed to make the most of its opportunity in a prominent location and it remains unattractive.

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

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

Housing mix

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

Other matters

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

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

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

Planning Obligations

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

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

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

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

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

Planning Balance

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

Conditions

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

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

Conclusion

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

Jonathon Parsons

Inspector

Schedule A attached conditions

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

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

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

- 4) No development shall take place, including any works of demolition, until a contamination remediation plan has been submitted to, and approved in writing by the local planning authority. The plan shall provide:
 - i) details of an intrusive site investigation in addition to the phase 1 desk study previously submitted. These details shall be submitted to and approved in writing by the local planning authority. The site shall be investigated by a competent person to identify the extent and nature of any contamination. The report shall include a tiered risk assessment of the contamination based on the proposed end use of the site.
 - ii) if following the results of the intrusive site investigation above, a scheme for decontamination of the site shall be submitted to the local planning authority for written approval.
 - iii) during the course of development, the local planning authority shall be notified immediately if additional contamination is discovered during the course of construction. A competent person shall assess the additional contamination, and shall submit appropriate amendments to the scheme for decontamination in writing to the local planning authority for approval before any work on that aspect of development continues.

Before the development is first brought into use:
 - iv) the agreed scheme for decontamination referred to in clauses ii) and iii) above, including amendments, shall be fully implemented and a written validation (closure) report submitted to the local planning authority for written approval.
- 5) No development shall take place, except demolition, intrusive site surveys and other enabling works (site clearance, soil storage, remedial works for contamination or any other adverse ground conditions, erection of any temporary means of enclosure and land raising), until a scheme of air quality mitigation has been submitted to and approved in writing by the local planning authority. The submitted scheme must include details of any required mitigation, taking into account planning policies and guidance, and cover the following:
 - i) measures to control emissions during the construction phase relating to earthworks, demolition, construction and trackout should be written into an Air Quality and Dust Management Plan.
 - ii) dust risk, to ensure that surrounding sensitive receptors are not exposed to fugitive dust emissions;
 - iii) emissions for the emergency generator;
 - iv) non-road mobile machinery; and
 - v) potential air quality pollutant concentrations at any modelled receptor locations, due to an uplift in vehicle movements and their associated emissions.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

- ii. at least 50% of timber and timber products to be sourced from accredited Forest Stewardship Council or Programme for the Endorsement of Forestry Certification scheme; and
 - iii. no construction or insulation materials to be used which will release toxins into the internal and external environment, including those that deplete stratospheric zone.
- 21) Notwithstanding the details on the approved plans, no development shall take place until details of hard and soft landscaping, play equipment, lighting, planting, hard and soft surfaces, and boundary treatment shall be submitted to and approved in writing by the local planning authority and retained as such thereafter. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting and seeding seasons following the occupation of the buildings or the completion of the development, whichever is the sooner; and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of similar size and species.
- 22) Prior to the first occupation of the development and notwithstanding the submitted plans, full details of accessible parking bays shall be submitted to and approved in writing by the local planning authority. The bays shall be installed in accordance with the approved details and so maintained at all times thereafter.
- 23) Prior to the first occupation of the development, details of the highway works to ensure safe access, supported by a Stage 1 and 2 Road Safety Audit, shall be submitted and approved in writing by the local planning authority. The approved details shall be implemented on site prior to the occupation of any part of the development.
- 24) Prior to the first occupation of the development and notwithstanding the submitted details, full details (the number, location, design of structure, manufacturer's specifications of long and short stay spaces) of all cycle stands for the occupants of, and visitors to, the development (including residential and commercial uses) shall be submitted to and approved in writing by the local planning authority. The approved facilities shall be fully implemented and made available for use before any part of the development is first occupied and thereafter retained for use at all times without obstruction.
- 25) Prior to the first occupation of the development, a scheme detailing 'Secure by Design' measures shall be submitted to and approved in writing by the local planning authority. No dwelling shall be occupied until the measures have been implemented unless otherwise agreed in writing by the local planning authority.
- 26) The development, hereby permitted, must be carried out in accordance with the approved Energy Statement (dated 18 October 2022 Rev 1.0). Upon final commencement of operation of any low and zero-carbon technologies, performance data for energy consumption must be submitted to and approved in writing by the local planning authority. The performance data shall be submitted every 18 months to a monitoring web-platform for a period of three years from the point of full operation.

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

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

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

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

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

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

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

APPEARANCES

FOR THE APPELLANT:

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

FOR THE LOCAL PLANNING AUTHORITY:

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

INTERESTED PERSONS:

I Moss	Third Party
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DOCUMENTS AT AND POST HEARING

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

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