



Appeal Decision

Inquiry held on 1-3 April 2025

Site visit made on 3 April 2025

by **Matthew Jones BA(Hons) MA MRTPI**

an Inspector appointed by the Secretary of State

Decision date: 29th May 2025

Appeal Ref: APP/E5900/W/24/3356375

Cuba Street Site, Land at Northeast Junction of Manilla Street and Tobago Street, London, E14 8GZ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a failure to give notice within the prescribed period of a decision on an application for planning permission under section 73 of the Town and Country Planning Act 1990 (as amended) for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Cuba Street LLP against the Council of the London Borough of Tower Hamlets.
- The application Ref is PA/24/00733/S.
- The application sought planning permission for erection of single tower block accommodating a high density residential led development (Use Class C3) with ancillary amenity and play space, along with the provision of a flexible retail space at ground floor (Use Class E), the provision of a new publicly accessible park and alterations to the public highway without complying with conditions attached to planning permission Ref PA/20/02128, dated 21 December 2022.
- The conditions in dispute are Nos 2, 24 and 29 which state that:

2: The development shall be carried out in accordance with the approved drawings listed in the Schedule to this decision notice.

b. The height shall not exceed 52 storeys;

c. There shall be no more than 421 residential units; and

d. There shall be no more than 97sqm of flexible retail/commercial floorspace (Use Class E) provided

24: a) The 10 market units and 13 shared ownership units shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(a) 'wheelchair adaptable'.

b) The 28 affordable rented units shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(b) 'wheelchair accessible'.

c) All of the 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.

d) 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 and shall not thereafter be occupied other than in accordance with such approval.

e) 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.

f) Any 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. The lifts shall be retained and maintained in an operational condition for the lifetime of the development.

29. No superstructure works shall take place, until details of cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority.

No less than 50% of the required 724 long stay cycle parking spaces and the 11 short stay shall be provided before first occupation of the development.

The cycle storage facilities shall be completed in accordance with the approved details prior to the first occupation of the development and thereafter maintained in operational condition and made available to the occupiers of the development for the lifetime of the development.

- The reasons given for the conditions are:

2: For the avoidance of doubt and in the interest of proper planning

24: To ensure adequate provision of accessible and adaptable dwellings & wheelchair accessible and wheelchair adaptable dwellings and that adequate step-free access is provided in accordance with policy D.H3 of the Tower Hamlets Local Plan 2031 (2020).

29: To ensure the provision of adequate cycle parking facilities in accordance with the requirements of policies T5 of the London Plan (2021), D.TR3 of the Tower Hamlets Local Plan 2031 (2020).

Decision

1. The appeal is allowed and planning permission is granted for erection of single tower block accommodating a high density residential led development (Use Class C3) with ancillary amenity and play space, along with the provision of a flexible retail space at ground floor (Use Class E), the provision of a new publicly accessible park and alterations to the public highway at Cuba Street Site, Land at Northeast Junction of Manilla Street and Tobago Street, London, E14 8GZ in accordance with the application Ref PA/24/00733/S without compliance with condition numbers 2, 24 and 29 previously imposed on planning permission Ref PA/20/02128 dated 21 December 2022 and subject to the conditions in the attached schedule.

Procedural Matter

2. On 2 May 2025, after the Inquiry had closed, two linked appeal decisions were published relating to a site in the London Borough of Richmond upon Thames (hereafter Stag Brewery)¹. As aspects of these decisions were of potential relevance to the proposal, I sought the views of the main parties as to any implications they may have, and I took the responses into account in my decision.

Background and Main Issue

3. The appeal site is a roughly rectangular, vacant, hoarded plot of around 0.44ha of previously developed land to the south of Canary Wharf. On 21 December 2022 permission was granted for a high rise, mixed use residential and ground floor retail development and park (the original permission).
4. The appellant is now seeking to amend the approved floor plans set out in the schedule referenced in condition 2 of the original permission. This is to provide an increase in the residential units from 421 to 434, and a reduction in the affordable housing (AH) provision from 100 (71/29 affordable rented to intermediate split as a ratio) to 58 (66/44 affordable rented to intermediate split as a ratio). In percentage terms the change in AH would be from 30.15 % to 16.6%. A consequence of these changes would be amendments to conditions 24 and 29, with respect to wheelchair

¹ APP/L5810/W/24/3339060 and APP/L5810/W/24/3339062

- accessible homes and cycle storage, given that they relate to the quantum of development subject to the original permission.
5. The Council failed to determine the planning application within the requisite period. Two putative reasons for refusal were put forward during the appeal. The first relates to the level of AH that could viably be delivered by the scheme. The second relates to the absence of a signed planning agreement to secure necessary planning obligations related to the development.
 6. The second reason for refusal has fallen away due to the submission of a signed Deed of Variation (the DoV) following the closing of the Inquiry. The DoV renders the appeal proposal subject to the legal agreement (the S106) attached to the original permission, with certain modifications. Together they would serve to secure planning obligations related to AH, employment and training during the construction phase and for end users, a sum towards offsite children's play space, contributions towards addressing the cumulative impact of construction activity, long-term cycle parking, and carbon emission off setting. Transport matters would also be secured as would public access to the proposed park. Whilst not now a specific area of dispute between the main parties, I return to the matter of the planning obligations later in this decision.
 7. Given the foregoing, the outstanding main issue is whether or not the proposed development would provide adequate AH, having regard to local and national policy and guidance.

Reasons

8. The matters for consideration in respect to the viability of the proposed AH fall into three areas. First, whether or not growth and cost forecasting should be embedded into the viability assessment when setting the viable level of AH the scheme can deliver, or rather whether viability should be analysed foremost on a 'present-day'² basis. Second, the level of price growth that should be identified between April 2024 and February 2025, over the course of the planning application and this appeal. Third, what is the more credible forecast of likely off plot sales?
9. If I find that growth and cost forecasting is not appropriate to embed into the viability assessment to set the level of AH, the second and third areas of dispute fall by the wayside. This is because, even if I were to adopt the Council's position on both points, the scheme would still offer an unviable level of AH on a present-day basis, albeit the appellant is willing to take the amended scheme forward.
10. It is common ground between the main parties that there would be a conflict with Policy D.H2 of the Tower Hamlets Local Plan 2031 (The Local Plan) (adopted 2020). This Policy requires development to maximise AH in accordance with a 70% rented and 30% intermediate tenure split. The scheme would only provide a minimum of 66% rented AH. The reason for the deficiency relates directly to the layout of the building which is based on feedback from Registered Providers that it is preferable for tenures to be split between floors, rather than mixed on a single floor. Given that this modest shortfall has arisen through a desire to meet the practical needs of Registered Providers, the weight I give to the conflict with Policy D.H2 is limited.

² In this case, taken as February 2025

11. Policy H4 of The London Plan (adopted 2021) sets a strategic target of 50% of all new homes across London to be genuinely affordable. Likewise, Policy S.H1 of The Local Plan sets an overall target of 50% of new homes being affordable. Policy H5 of the Local Plan and Policy S.H1 go on to identify 35% as the minimum AH to be provided on sites like the appeal site, unless viability evidence shows a lower amount is justified. Applications for the latter take the Viability Tested Route and, if granted, are subject to viability review mechanisms during delivery.
12. Whilst the revisiting of viability at the site came just 16 months after the original permission, nothing in policy precludes this. On the contrary, Policy H5 devotes a section to applications made to vary permissions pursuant to section 73 of the Town and Country Planning Act 1990 (as amended), stating that such submissions should be assessed under the Viability Tested Route. It is not a question of 'right or wrong'; amended schemes will simply stand or fall on the decision maker's reassessment. In this case, rather than the initially anticipated risk associated with the original permission being realised, the relationship between value and costs has worsened³. The timing and nature of the proposal is not therefore a credible reason to apportion limited weight to the appellant's latest viability assessment.
13. Policy H5 also states that where a viability assessment is required to ascertain the maximum level of affordable housing deliverable, the assessment should be undertaken in line with the Mayor's Affordable Housing and Viability Supplementary Planning Guidance (2017) (SPG). The Council's position that the SPG allows for or promotes the embedding of growth forecasting when establishing a scheme's viable AH offer largely turns on the Council's interpretation of paragraph 3.12, insofar as it relates to larger schemes, such as this one.
14. However, paragraph 3.12 is in the 'Scheme Delivery' section which is addressed to applicants and their ability to demonstrate deliverability in cases where a scheme is unviable, to ensure that the viability assessment is realistic. The preceding two paragraphs in that section are predicated on such situations. Paragraph 3.12 follows saying that it may be appropriate to embed growth for larger schemes in those specific circumstances, and then goes on to promote the use of review mechanisms '*given the uncertainty in determining viability at the application stage*'.
15. Where it states that '*higher profit targets should not be assumed which offset the benefits of this approach*' it is seeking to prevent applicants avoiding higher AH contributions in the event of a market upturn by adopting higher profit targets at the review stage. It would make no sense for it to do that if it was supporting the approach that forecasting should be embedded to set the viable AH offer. The SPG is not by any straightforward interpretation doing that, but rather promoting the use of forecasting by applicants in an appropriate way specifically where a scheme may not be deliverable. If forecasting allays concerns that a scheme is not deliverable, reviews step in later to capture the benefits of forecast growth that has then realised.
16. This interpretation is supported by cross referencing the Scheme Delivery section with paragraphs 3.35 and 3.365. They state that '*the application of a review mechanism should not be used as a justification for a higher profit level*' and that '*The review mechanisms should determine whether a surplus is generated over and above the returns necessary for a scheme to be deemed viable*'. This means that reviews should only ever go in one direction: towards greater AH provision.

³ Figure 21 of the Council's Financial Viability Assessment

- This exposes an incoherence in the Council's approach in requiring elevated AH at the inception of a scheme based on favourable growth forecasts, in a system that is designed to impose one-way review mechanisms to enhance AH contributions when growth occurs. The 'one-way only' review mechanism logically infers that the SPG anticipates that costs and values should be fixed in the first instance to the present day.
17. This interpretation is consistent with the Planning Practice Guidance (PPG), which fosters a simple, standardised approach to viability. Despite a straightforward, step-by-step overview of how viability assessments should be standardised, the PPG does not explicitly refer to the use of embedded forecasts to set AH. It does, however, consider the concept of growth insofar as it promotes one-way review mechanisms to ensure optimal benefits through economic cycles.
 18. Where it says that viability should be based on '*the best available evidence*', that phrase lends itself more to existing data than forecasts. Whilst it is common ground that the Council's forecasts are realistic, realistic does not necessarily mean real or that they will come to pass. Real data logically trumps inherently uncertain forecasts, however cogent, in providing the best available evidence to establish the viable AH offer at the planning application stage, at a scheme's nascent and one of its more financially uncertain points. Appendix 10 of Mr Uddin's proof illustrates the cyclical nature of the economy, but it is future events that will inform us where exactly we are in the cycle. This is particularly so in the current unpredictable economic and geopolitical climate, which was tumultuous through the Inquiry itself.
 19. The PPG purposefully conveys the Government's clear intention that '*viability helps to strike a balance between the aspirations of developers and landowners, in terms of returns against risk, and the aims of the planning system to secure maximum benefits in the public interest through the granting of planning permission*'. Realism in viability assessment should not be pursued at the cost of deliverability. Rather, the PPG seeks the creation of policies which are both realistic and deliverable to achieve this compromise. This echoes the National Planning Policy Framework (the Framework) where it states that plans should be prepared positively in a way that is aspirational but deliverable. Paragraph 35 specifically informs us that policies which relate to planning obligations should not undermine the deliverability of the plan.
 20. Fixing the AH on present-day data, with a one-way review mechanism to increase the AH if viability improves, is thus consistent with the PPG and the SPG's approach. In contrast, to front load risk by baking-in favourable growth forecasts, with no mechanism to reduce the AH if such growth does not materialise, would sit very awkwardly with that approach. When this planning policy context is correctly interpreted and understood it offers a strong endorsement of the appellant's approach and substantial support in favour of allowing this appeal.
 21. Elements of appraisal work are dependent on forecasting, for example off plan sales. This is not analogous to the principle of relying on forecasts to set parameters for a development where that will have fundamental consequences as to its commencement. Similarly, it is not improper or a flaw in the system that policy and guidance promote a present-day approach, while developers make the ultimate decision to proceed with an eye on the future economic outlook. This distinction secures deliverable planning permissions whilst allowing the risk of commencing to be assessed by those best placed to make commercial decisions: the developer.

22. There is also a subtle but important nuance here in that developers are not simply proceeding based on assumptions of future growth. Rather, development would commence with an understanding that there is a prospect of growth, but equally also with an acceptance that only the minimum tolerable return established at the planning stage may be achieved. Forecasting is used, but not in a manner that unacceptably increases risk. The balance the PPG requires is then struck via the one-way review mechanism.
23. I understand the Council's unfavourable opinion of late-stage review mechanisms, in that, amongst other things, they provide commuted sums rather than onsite AH provision, and it tends to be easier to capture costs rather than value at the late-stage point. The Council's criticisms do not however alter the fundamental point that they are the established mechanism for optimal AH provision espoused in the PPG and adopted here through the plan making process.
24. The RICS documents discussed at the Inquiry assist in establishing mandatory and recommended professional standards in relation to viability assessment, but they are not planning policy, and care should be taken not to treat them as such. Indeed, the RICS Professional Standard: Assessing viability in planning under the National Planning Policy Framework (the RICS PS) explicitly defers to planning policy and guidance, describing them as the authoritative requirements in viability assessment.
25. Paragraphs 4.1.5 – 4.1.7 of the RICS PS explore the pros and cons of using current or projected values and costs. It would have aided the Inquiry had Professor Crosby, the lead author of the RICS PS, attended and been subject to cross examination to allow his submissions to have been tested at that appropriate time. He did not, which diminishes the weight that I attribute to his evidence.
26. Nonetheless I am inclined to the interpretation that Paragraph 4.1.6 recommends forecasting be used in the primary viability appraisal, rather than just sensitivity testing, where value and cost change are a significant factor in the market (as is the case here). That interpretation reads consistently with the preceding paragraph that states that fixed values and costs can distort the analysis in a viability assessment in all but the simplest cases. It also logically corresponds with the definition of Gross Development Value in the RICS Valuation of Development Property document.
27. However, it only recommends that approach, and I do not find it, for the reasons already expressed, a recommendation that sits well with the authoritative requirements of the PPG and the SPG. To my mind, given the inherent uncertainty in forecasting, it would only typically be justified for a decision maker to deviate from planning policy and embed forecasts to set the AH offer where schemes are planned, and/or very large and multi phased, such as a new town for example. This single-phase proposal, whilst longer term, does not provide a duration or complexity of delivery that justifies a more complicated approach to viability.
28. The Stag Brewery decisions, whilst not determinative, are consistent with my position on that. The Inspector there did not consider it appropriate to embed forecasting to set AH, despite it being for a much larger, longer term, more complex, and multi phased, masterplan style development. Instead, review mechanisms are the chosen method to strike the PPG's required balance. The mechanisms are more complex in that case, but they are proportionate to that scheme and so do not call into question the appropriateness of the proposed review mechanisms in this case.

29. In any event, the Council has not followed through on the subsequent recommendation in paragraph 4.1.7 of the RICS PS that, if projected higher values are to be introduced into the viability assessment, higher returns should subsequently be adopted, in my view to account for the logically increased risk of doing so. This also runs counter to Professor Crosby's advice advocating for a risk-based adjustment to the target rate of return when relying on forecasts, as set out in the evidence. Thus, even if the Council's interpretation of the RICS PS is correct, the way the Council has utilised that interpretation in its analysis is flawed.
30. The paragraph of the RICS PS that I find particularly compelling is 2.3.5. It states a legitimate option for landowners is to simply wait for a better market environment. To overburden at the outset, and without recognising the increase in risk that that would entail, would likely cause developers to stall sites and wait for an economic up-turn. This would lead the planning system, and particularly housing delivery, to effectively mimic the cyclical nature of the economy, which would run counter to the Government's desire to maintain a sufficient delivery of housing sites year on year.
31. The original permission is unviable whether one adopts a present-day approach or relies on forecasts. Favouring the former it is also undeliverable. It is faced with the widened gap between value and cost and the inability to find a Registered Provider willing or able to take on the AH despite active marketing. Accepting the scheme will be either wholly or partially debt funded, the reluctant position of lenders with regard to forecasting is also important. Whilst I note the intercompany transaction that took place at the site in 2023, I see no reason why the practical impediments to the delivery of the original permission outwith the control of the appellant would be overcome as a result of dismissing this appeal. The original permission is therefore a fallback option of little weight and allowing the appeal would not constitute a lost opportunity to secure greater AH in the current economic circumstances.
32. I recognise that the need for AH in London and especially Tower Hamlets is acute. Moreover, the failure to keep pace with rising unmet need has significant consequences for those affected, with an estimated 183,000 Londoners in temporary accommodation. The proposed development offers an opportunity to deliver at least some AH to help relieve that housing need, which the evidence indicates would not otherwise be forthcoming from this site as things stand.
33. The Council highlights that viability best practice evolves, pointing to previous changes to the PPG when elements were found to be circular and undermine the Government's agenda. This simply affirms the status of planning policy/guidance as the authoritative requirement in this case. It is changes to planning policy/guidance that are the most appropriate means to provoke changes in viability appraisal best practice in relation to planning applications.
34. For the reasons outlined above, in the circumstances of this case, I have found that growth and cost forecasting is not appropriate to embed into the viability assessment. Accordingly, the second and third matters, relating to price growth and sales forecasting as identified above, do not need to be considered any further.
35. I therefore conclude that the proposed development would provide adequate AH, having regard to local and national policy and guidance. Whilst there would be conflict with Policy H4 in respect of the AH tenure split, the scheme would otherwise accord with the aims and objectives of Policies H4 and H5 of The London Plan, Policies S.H1 and D.H2 of the THLP, the SPG, the Framework and the PPG.

Other Matters

36. There are three listed buildings within 500m of the appeal site. These are the Grade I listed Quay walls, copings and buttresses to the Import and Export Dock at West Quay and West India Dock North (hereafter the Docks), the Grade II listed Former west entrance lock to the South Dock (the Lock) and the Grade II listed Cascades. There are several listed buildings further afield, which are identified within the appellant's heritage evidence⁴. I am mindful of my duty to have special regard to desirability of preserving the settings of all of these listed buildings.
37. The setting of the Docks is dominated by the various tall buildings which comprise Canary Wharf. Where there is limited intervisibility between the site and the Docks, the proposal would be read within the context of these existing tall buildings to the extent that the Dock's setting would be preserved. The same holds true for the Lock, which is an historic maritime feature now contextualized by tall development. Cascades is right next to it and is the trailblazer for high rise redevelopment of the Docklands. From its most important angle, viewed from the Thames, it is read against a backdrop of tall, modern buildings. The appeal proposal would do little to alter that. As for the listed buildings further afield, the site offers nothing specific to any of their significance, and the development would be viewed as a proportionate addition to the established cityscape. Their settings would also be preserved.
38. An interested party is concerned about the impacts of the development in terms of congestion, access to services, and the living conditions of residents. However, I am mindful that this is an established high density residential area, and that the development plan has identified South Quay, within which the appeal site falls, as a location with a potential capacity for an additional 5,293 homes and 930 jobs. Concerns about finish materials and water use can be addressed by way of conditions. The height difference between the scheme and 30 Marsh Wall is likely to be similar to relationships between existing tall buildings in this area.

Planning Obligations

39. The DoV and S106 would secure the AH and the early and late-stage reviews. Contributions, initiatives and a strategy are required to support and provide training to meet the enterprise and skills needs of local residents in exploiting new job opportunities during the construction and the end user phase of the development. A sum is needed for offsite child play space owing to the modest shortfall within the scheme. A contribution is required towards projects and interventions to address the well documented cumulative effects of construction activity in the area. In the interest of sustainable transport, an obligation is necessary to ensure the long-term delivery of optimal levels of cycle parking both onsite and offsite. Likewise, other transport matters such as car free housing and travel plans are also necessary to be secured. The breadth of public highway works necessitated by the proposed development are required to be secured by the planning agreements.
40. The park is a policy requirement, and the planning agreements would control its specification, management, and ensure public access to that space. A payment would contribute towards ensuring that the development is constructed in coordination with development in the surrounding local area. A contribution is needed to offset the carbon likely to be generated by the development. An obligation would provide adherence to the Code of Construction Practice and

⁴ Set out within Table 2-4 of the Townscape, Visual Impact and Heritage Assessment

Considerate Constructors Scheme. A series of obligations would ensure the scheme complies with the 'Be Seen' energy monitoring guidance to achieve acceptable operational energy performance in accordance Policy S1 2 of the London Plan.

41. The above obligations would accord with the requirements Policy E11 of the London Plan, Policy D.SG5 of the Local Plan, and the Planning Obligations Supplementary Planning Document (2021). All in all, for these reasons, the S106 and the DoV are in compliance with CIL Regulation 122, and I can take them into account in my decision.

Conditions

42. As any permission granted would stand alongside the original permission, it is necessary to reimpose all other relevant planning conditions that are not in dispute between the parties, notwithstanding some are modified to require accordance with details already submitted to satisfy those conditions. I have been given no reason to doubt that the conditions in question pass the six requisite tests.
43. As the time limit for commencement cannot be extended, I have adapted the time limit condition as necessary. A modified accord with plans condition is necessary to update the scheme. Likewise, changes to the number of homes and the AH necessitate changes to conditions 24 and 29 in relation to homes with wheelchair access and cycle storage.
44. Saturday morning working hours are allowed by the original permission. There has been a change in circumstances, with the publication in 2023 of new guidance in Tower Hamlets related to noise nuisance around the appeal site, which seeks to prevent Saturday working. From my second unaccompanied visit, I found there to be a near constant, intrusive cacophony of impulsive noise related to ongoing construction projects around the site. Whilst I accept that precluding Saturday working will conversely extend the duration of the proposed works, I consider that the specific circumstances of the case justify aligning with the new guidance. This has necessitated modifications to conditions 3 and 11 insofar as they relate to the timings of construction work. The suggested solution to allow Saturday work unless it is 'high impact' and 'noisy' fails the test of precision.

Planning Balance and Conclusion

45. The proposed development accords with the development plan read as a whole. The other considerations before me do not indicate that I should make a decision other than in accordance with the development plan.
46. For the reasons given above I conclude that the appeal should succeed. I will grant a new planning permission without the disputed conditions and restating those undisputed conditions that are still subsisting and capable of taking effect.

Matthew Jones

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Mr Russell Harris, King's Counsel

instructed by Claire Dutch and Christina Achkarian
at Ashurst LLP

They called:

Mr James Brierley MA(Oxon), MRICS

Partner, Newmark

Mr Jon Roshier BSc (Hons), MPhil, MRTPI

Director, Rolfe Judd

FOR THE LOCAL PLANNING AUTHORITY:

Miss Melissa Murphy, King's Counsel

instructed by the London Borough of Tower
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They called:

Mr Joshim Uddin BSc (Hons) MRICS

Director, JJ Viabilty Limited

Mr Ronan Murray BA (Hons) MA

Senior Planner, Tower Hamlets

Mrs Astrid Patil

Senior Planning Solicitor, Tower Hamlets

DOCUMENTS SUBMITTED DURING AND AFTER THE INQUIRY

ID1	Appellant Schedule of Appearances
ID2	Council Schedule of Appearances
ID3	PPG Extract
ID4	Appellant's Opening Statement
ID5	Council Opening Statement
ID6	Updated SoCG
ID7	CIL Compliance Statement
ID8	Updated Condition 2
ID9	Council Closing Submissions
ID10	Appellant Closing Submissions
ID11	Council's Draft condition 3
ID12	Appellant's Draft Condition 3
ID13	Completed Deed of Variation
ID14	Stag Brewery Decision Letter
ID15	Appellant's Response to Stag Brewery Decisions
ID16	Council's response to Stag Brewery Decisions

Schedule of Conditions

- 1) The development shall begin no later than 21 December 2025.
- 2) (a) The development shall be carried out in accordance with the following approved drawings:

Site Location Plan - 8314-PL-KP-P-100

Ground Floor GA Plan - CUB- WDN- ZZ-00-DR-A-20202 P08

Floor 01 GA Plan - CUB- WDN- ZZ-01-DR-A-20202 P06

Floor 02 GA Plan - CUB- WDN- ZZ-02-DR-A-20202 P04

Floor 03 GA Plan - CUB- WDN- ZZ-03-DR-A-20202 P04

Floor 04 GA Plan - CUB- WDN- ZZ-04-DR-A-20202 P04

Floor 05 GA Plan - CUB- WDN- ZZ-05-DR-A-20202 P04

Floor 06 GA Plan - CUB- WDN- ZZ-06-DR-A-20202 P04

Floor 07 GA Plan - CUB- WDN- ZZ-07-DR-A-20202 P02

Floor 08 GA Plan - CUB- WDN- ZZ-08-DR-A-20202 P02

Floor 09 GA Plan - CUB- WDN- ZZ-09-DR-A-20202 P02

Floor 10 GA Plan - CUB- WDN- ZZ-10-DR-A-20202 P02

Floor 11-14 GA Plan - CUB- WDN- ZZ-ZZ-DR-A-20210 P04

Floor 15-31 GA Plan - CUB- WDN- ZZ-ZZ-DR-A-20211 P04

Floor 32 GA Plan - CUB- WDN- ZZ-32-DR-A-20202 P04

Floor 33-47 GA Plan - CUB- WDN- ZZ-ZZ-DR-A-20212 - P04

Floor 48-50 GA Plan - CUB- WDN- ZZ-ZZ-DR-A-20213 P05

Floor 51 GA Plan - CUB- WDN- ZZ-51-DR-A-20202 P04

Roof GA Plan - CUB- WDN- ZZ-RL-DR-A-20202 P05

Elevation North - CUB- WDN- ZZ-ZZ-DR-A-20405 P03

Elevation South - CUB- WDN- ZZ-ZZ-DR-A-20406 P03

Elevation East - CUB- WDN- ZZ-ZZ-DR-A-20407 P03

Elevation West - CUB- WDN- ZZ-ZZ-DR-A-20408 P03

South Elevation Section A-A - CUB- WDN- ZZ-ZZ-DR-A-20505 P02

West Elevation Section B-B - CUB- WDN- ZZ-ZZ-DR-A-20506 P02

Typical Façade Bay Study E/W - CUB- WDN- ZZ-ZZ-DR-A-20409 P02

Typical Façade Bay Study N/S - CUB- WDN- ZZ-ZZ-DR-A-20410 P02

Typical Façade Bay Study Corner Balcony - CUB- WDN- ZZ-ZZ-DR-A-20411 P02

Typical Façade Bay Study Linear Balcony West Plan - CUB- WDN- ZZ-ZZ-DR-A-20412 P02

Perimeter Strip Elevation - CUB- WDN- ZZ-ZZ-DR-A-20413 P01

Unit Plans 01 - CUB-WDN-ZZ-ZZ-DR-A-70991 P01

Unit Plans 02 - CUB-WDN-ZZ-ZZ-DR-A-70992 P01

Unit Plans 03 - CUB-WDN-ZZ-ZZ-DR-A-70993 P01

Unit Plans 04 - CUB-WDN-ZZ-ZZ-DR-A-70994 P01

Unit Plans 05 - CUB-WDN-ZZ-ZZ-DR-A-70995 P01

(b) The height shall not exceed 52 storeys;

(c) There shall be no more than 434 residential units; and

(d) There shall be no more than 97sqm of flexible retail/commercial floorspace (Use Class E) provided

- 3) Unless otherwise specified by a S61 Consent granted under the Control of Pollution Act 1974, 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 within the hours of 08:00 and 18:00 Monday to Friday. No works shall take place on Saturdays, Sundays and Public Holidays.

(c) Ground-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) 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).

- 4) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended), no change of use permitted by Schedule 2, Part 3, Classes G, H and MA of the Order shall be carried out or erected without the prior written permission of the Local Planning Authority.
- 5) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), no fences, barriers, gates, bollards or other means of enclosure, however temporary, shall be erected within the site following the practical completion of the development.

- 6) 1) None of the approved residential units shall be occupied unless they have first been constructed to ensure that they are adequately protected against external transportation noise sources and external noise without specific character likely to enhance its impact such as tones, impulsive elements or dominant low frequency content, and that:
- 1a) The dwellings are laid out on the site, orientated, designed and constructed in line with the principles of good acoustic design from the ProPG: Planning & Noise - New Residential Development.
 - 1b) The construction accords with BS8233 'Sound Insulation and Noise Reduction for Buildings';
 - 1c) Internal ambient noise levels in habitable rooms except bedrooms do not exceed 35dB LAeq,16 hour, between the hours 07:00 - 23:00 and within bedrooms do not exceed both 30 dB LAeq, 8 hour and LAmax 45 dB more than 10 times between the hours 23:00 - 07:00.
 - 1d) Ground and structure-borne noise does not exceed LAmax 35 dB;
 - 1e) Exposure to vibration is no higher than of the values equivalent to low probability of adverse comment in accordance with BS6472 'Evaluation of Human Exposure to Vibration in Buildings';
 - 1f) At any junction between adjoining residential and non-residential uses, the internal noise insulation level is designed to take account of the noise levels generated in the noise source so that in habitable rooms the typical worst case (i.e. 90th percentile LAeq,15 min level of intruding noise) is at least 10 dBA below the equivalent prevailing LAeq,15 min in the receptor.
 - 1g) It has regard to non-transportation noise sources and noise with specific character likely to enhance its impact; such as tones, impulsive elements or dominant low frequency content. The above noise level criteria shall apply minus an appropriate correction to take account of the enhanced impact. For example, where the noise has tonal or impulsive elements the corrections for such features from the reference methods described in BS 4142, and where low frequency content is dominant a fixed correction of -5 dB. Where the noise contains more than 1 characteristic likely to enhance its impact the corrections shall be added linearly.
- 2) None of the residential units shall be occupied until a post completion verification report, including acoustic test results, has first been submitted to and approved in writing by the Local Planning Authority confirming that the above minimum standards have been achieved.
- 7) a) The development shall be carried out in accordance with the approved Energy Strategy revision 6 (by Hoare Lea dated 27th September 2022) and Sustainability Statement (by Hoare Lea dated 14th September 2020). The energy efficiency and sustainability measures set out therein shall be completed prior to the first occupation of the development and retained for its lifetime.
- b) The development shall achieve regulated carbon dioxide emission savings of no less than 65.6% against the Target Emissions Rate of Part L of Building Regulations (2013).

- c) 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.
- d) All of the approved residential units shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement G2(36)(2)(b) '110 litres water consumption per person per day' (including a 5 litre per person per day allowance for external water use).
- e) The development shall not be occupied until a post completion verification report has first been 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
- 8) 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 level (LA90, T) 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 level shall be determined using the methods from the version of BS 4142 current at the time of permission. Vibration from the plant hereby approved (when assessed as per advice of the version of BS 6472 current at the time of the permission) in the centre of any habitable room shall cause vibration no higher than the values equivalent to "low probability of adverse comment" in accordance with BS6472 'Evaluation of Human Exposure to Vibration in Buildings';
- b) No mechanical plant or equipment shall be operated within the site (except for the purposes of conducting acoustic testing) until a post installation verification report, including acoustic test results, has first been submitted to and approved in writing by the Local Planning Authority confirming that the above maximum noise standard has been achieved and that the mitigation measures are robust.
- 9) The development hereby permitted shall be carried out in accordance with the mitigation measures set out in the Temple Final Review Report dated 15th May 2021, unless otherwise provided for or subject to any alternative mitigation measures as may be approved in writing by the Local Planning Authority, provided that such measures do not lead to there being any significant environmental effects other than those assessed in the Environmental Statement.
- 10) The proposed development shall be implemented in accordance with the details included within the Fire Statement CUB-WSP-ZZ-ZZ-RP-F-0002 dated February 2022.
- 11) The development shall be carried out in accordance with the Construction Environmental Management & Logistics Plan approved under planning permission reference PA/23/00643 (dated 5th September 2023) except that construction shall only be carried out within the hours of 08:00 and 18:00 Monday to Friday. No works shall take place on Saturdays, Sundays and Public Holidays.

12) The development shall not be occupied until a Site Waste Management Plan 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 relevant standards;
- c) Measurement of bins are 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) Bins are to be built in accordance with relevant standards;
- l) Bulky waste storage must be in its own separate storage unit away from other waste streams;
- m) Bulky waste storage must be in its own separate storage unit away from other waste streams;
- n) Information of dropped kerbs is to be provided and within 10m of trolleying distance from bin stores;
- o) Waste carrying distance for residents should be maximum 30 metres to the bin store;
- p) Managing agent shall 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
- q) Details of how the waste collections vehicle will service this proposal including all loading and unloading areas must be provided.

The provisions for waste storage shown on the approved plans shall be maintained for the lifetime of the development unless otherwise agreed in writing with the Council. The waste storage and waste collection facilities shown on the approved drawings shall be provided prior to the first occupation of the development and be maintained in an operational condition and made available to the occupiers of the building for the lifetime of the development.

- 13) A precautionary survey for Jersey Cudweed should be undertaken before any site clearance commences. Clearance should be undertaken within 12 months of the survey, or the survey will need to be repeated. If Jersey Cudweed is found on the site, a licence from Natural England will be required before the site could be cleared, and a mitigation strategy will be needed to obtain the licence.
 - 14) No construction cranes shall be erected within the site until a Method Statement, including geographical coordinate locations, diagrams of all cranes used clearly labelled with maximum operating heights, radius/jib lengths, and details of aircraft obstacle lighting, has first been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.
 - 15) The development hereby approved shall be carried out in accordance with the NATS Written Letter approved under planning permission reference PA/23/00473 (dated 22nd March 2023).
 - 16) The development hereby approved shall be carried out in accordance with the Geotechnical and Geo-environmental Interpretive Report and Remediation Strategy and Validation Plan approved under planning permission reference PA/23/00546 (dated 20th April 2023).
- Occupation of the building hereby approved shall not begin until:
- i. The remediation works approved by the Local Planning Authority as part of the remediation strategy have been carried out in full. If during the remediation or development work new areas of contamination are encountered, which have not been previously identified, then an adequate remediation scheme shall be submitted to and approved in writing by the Local Planning Authority and fully implemented thereafter.
 - ii. A verification report, produced on completion of the remediation works to demonstrate effective implementation of the remediation strategy, has been submitted to and approved in writing by the local planning authority. The content of the report must comply with best practice guidance and should include, details of the remediation works carried out, results of verification sampling, testing and monitoring and all waste management documentation showing the classification of waste, its treatment, movement and/or disposal in order to demonstrate compliance with the approved remediation strategy.
- 17) The development shall not be carried out other than in accordance with the Piling Works Impact Assessment approved under planning permission reference PA/23/00628 (dated 20th April 2023).
 - 18) The development shall be carried out in accordance with the Written Scheme of Investigation of Archaeological Monitoring (dated November 2022) and Archaeological Trial Trenching Evaluation Report (dated September 2023) approved under planning permission references PA/23/00251 and PA/23/02150/S.

- 19) No external facade works shall take place until samples and full particulars of all external facing materials to be used in the construction 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 all external cladding, where relevant, shall include all types of cladding material to be used, details of joints, panel sizes and fixing method for 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) Details of any balconies, terraces or wintergardens and associated balustrades, soffits and drainage.

e) Details of any external rainwater goods, flues, grilles, louvres and vents.

f) Details of any external plant, plant enclosures and safety balustrades.

g) 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.

20) Prior to occupation of the approved development, a full Lighting Strategy shall be submitted to and approved in writing by the Local Authority. The Lighting Strategy should include light spill drawings and proposed Lux levels. The development shall not be carried out other than in accordance with the approved details.

21) Prior to the construction of the 50th storey of the building a landscaping scheme shall be submitted to and approved in writing by the Local Planning Authority. Reasonable endeavours shall be made to ensure that the Scheme achieves the target Urban Greening Factor score for the site of 0.59.

The scheme shall include details of:

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) biodiversity features;

f) sustainable urban drainage features;

- g) drain covers, manholes and covers for access to drainage and utilities;
- h) play equipment and playable landscape features;
- i) railings, walls and other means of enclosure;
- j) bollards, gates and other access control measures;
- k) furniture including benches and litter bins;
- l) CCTV and other security measures;
- m) ground levels, gradients, thresholds and inclusive access provisions;
- n) external cycle parking stands;
- o) wind mitigation measures;
- p) public art; and
- q) signage and wayfinding measures including Legible London signage.

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 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.

- 22) Prior to the commencement of any superstructure works, a surface water drainage drawing and strategy for the site shall be submitted and approved in writing by the Local Planning Authority, based on the agreed 'Outline Strategy'.

The scheme shall include (but not be limited to)

- a) The peak discharge rate of 2l/s and together with any associated control structures and their position on site;
- b) Safe management of critical storm water storage up to the 1:100 year event plus 40% for the entire site; and
- c) Details of agreed adoption, monitoring and maintenance of the drainage and suds features. The scheme shall subsequently be implemented in accordance with the approved details before the development is completed.

- 23) Prior to completion of superstructure works, full details of biodiversity mitigation and enhancements shall be submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancements shall include but not be limited to the following:

- 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 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) bat boxes, bee 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;
- d) 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 development and retained and maintained in accordance with the approved maintenance provisions for the lifetime of the development.

- 24)a) The 14 market units and 14 shared ownership units shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(a) 'wheelchair adaptable'.
 - b) The 16 affordable rented units shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(b) 'wheelchair accessible'.
 - c) All of the 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.
 - d) 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 and shall not thereafter be occupied other than in accordance with such approval.
 - e) 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.
 - f) Any lifts shown on the approved drawings shall be installed and in an operational condition prior to the first occupation of the relevant residential access cores. The lifts shall be retained and maintained in an operational condition for the lifetime of the development.
- 25) At least 9 months prior to completion of the first wheelchair housing unit, a Wheelchair Accessible or Easily Adaptable Units Marketing Strategy shall be submitted to and approved in writing by the Local Planning Authority. The strategy shall include a commitment to notify the Local Planning Authority of the availability of all wheelchair accessible/adaptable units, and set out how the marketing for each wheelchair accessible/adaptable unit will be targeted to households which include wheelchair users, for a minimum of 6 months prior to completion of the unit.

- 26)(a) Prior to first occupation of the development, design details of security (Secured by Design) measures shall have been submitted to and approved in writing by the Local Planning Authority.
- (b) Full details and appropriate certificates detailing implementation of security (Secured by Design) measures in line with (a), shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the development.
- The security measures approved shall be implemented in accordance with the approved details, completed prior to first occupation of the development and retained for the lifetime of the development.
- 27) Prior to first occupation, a Deliveries and Servicing Plan shall be submitted to and approved in writing by the Local Planning Authority. The deliveries and servicing shall not take place otherwise than in accordance with the Deliveries and Servicing Plan thus approved.
- 28) Prior to first occupation a density management plan shall be submitted to and approved in writing by the Local Planning Authority. The plan should include details of day-to-day servicing and deliveries, longer-term maintenance implications and the long-term affordability of running costs and service charges (by different types of occupiers).
- 29) No superstructure works shall take place until details of cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority.
- No less than 50% of the required 718 long stay cycle parking spaces and the 11 short stay spaces shall be provided before first occupation of the development.
- The cycle storage facilities shall be completed in accordance with the approved details prior to the first occupation of the development and thereafter maintained in operational condition and made available to the occupiers of the development for the lifetime of the development.
- 30) Prior to occupation of any residential units, a Flood Warning and Evacuation Plan (FWEP) must be submitted to and approved in writing by the Local Authority. The Flood Warning and Evacuation Plan must detail how residual flood risk will be managed in the event of flood or breach to the defences.
- 31) There shall be no occupation beyond the 99th dwelling until confirmation has been provided that either:- all water network upgrades required to accommodate the additional demand to serve the development have been completed; or- a development and infrastructure phasing plan has been agreed with Thames Water to allow additional development to be occupied. Where a development and infrastructure phasing plan is agreed, no occupation of those additional dwellings shall take place other than in accordance with the agreed development and infrastructure phasing plan.
- 32) Prior to the occupation of the building, guidance shall be provided to the occupants on minimising the overheating risks. The details must first be submitted to and approved in writing by the Local Planning Authority.