



Appeal Decision

Hearing held on 4 September 2025

Site visit made on 4 September 2025

by J Bowyer BSc(Hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 3 October 2025

Appeal Ref: APP/Z5630/W/25/3364278

28-46 Cromwell Road, Kingston Upon Thames KT2 6RJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 (as amended) against a refusal to grant 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 Ms Emma White, Aroch Limited against the decision of Royal Borough of Kingston Upon Thames.
 - The application Ref is 24/03162/FUL.
The application sought planning permission for 'demolition of existing buildings and redevelopment of site to provide a building comprising part one, two, four, five, six and seven storeys in height (including a basement) incorporating residential units, a replacement childrens nursery (Class E(f)), a community use space (Class F1 and F2) and associated Blue Badge parking, cycle parking, refuse storage, plant, landscaping and amenity space' without complying with conditions 1 and 44 attached to planning permission Ref 21/01086/FUL, dated 25 November 2022.
 - The relevant conditions are Nos 1 and 44 which are listed, along with their reasons, in the attached Schedule 1: Conditions Where Variation is Sought.
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Decision

1. The appeal is allowed and planning permission is granted for 'demolition of existing buildings and redevelopment of site to provide a building comprising part one, two, four, five, six and seven storeys in height (including a basement) incorporating residential units, a replacement childrens nursery (Class E(f)), a community use space (Class F1 and F2) and associated Blue Badge parking, cycle parking, refuse storage, plant, landscaping and amenity space' without complying with conditions 1 and 44 attached to planning permission Ref 21/01086/FUL, dated 25 November 2022 but subject to the conditions in the attached Schedule 2: Imposed Conditions.

Applications for Costs

2. An application for costs was made by Ms Emma White, Aroch Limited against the Royal Borough of Kingston Upon Thames. In addition, an application for costs was made by the Royal Borough of Kingston Upon Thames against Ms Emma White, Aroch Limited. These applications are the subject of separate Decisions.

Background and Main Issues

3. In 2022, the Council granted planning permission for development on the appeal site¹ ('the Parent Permission') subject to a number of conditions and a planning obligation under the provisions of section 106 of the Town and Country Planning Act 1990 ('the Act') ('the Principal s106 Agreement').

¹ Application ref 21/01086/FUL

4. The current appeal is seeking a new permission under section 73 of the Act for the same description of development as the Parent Permission but substituting amended plans for those that were approved under its condition 1. The amended plans make changes to the external design of the development including the removal of a roof terrace, reduction in massing of the building and adjustments to elevations, and changes to landscaping. They also provide for changes to the internal layout of the development, including a reduction in the size of the nursery. The appeal scheme additionally seeks an update to condition 44 of the Parent Permission to reflect a Fire Statement submitted as part of the application.
5. The Council has not raised concerns in respect of the changes to the Fire Statement information, nor the changes to the approved plans save in relation to the size of the nursery. Based on my observations and the information before me, I have no firm reason to take a different view and I am satisfied that these changes would not make the development unacceptable.
6. In making the appeal application however, the appellant also sought to alter the terms of planning obligations agreed as part of the Parent Permission on grounds of viability and a lack of interest from Registered Providers of affordable housing to take on the approved affordable dwellings. They proposed to remove a financial contribution of £750,000 towards supported living and outreach in the borough ('the SLO Contribution'). They also proposed to make a financial contribution towards affordable housing instead of providing 13 affordable dwellings as was part of the Parent Permission. In submitting the appeal, the appellant reinstated the SLO Contribution without prejudice to their position that it would not be viable.
7. Prior to the Hearing, the appellant submitted a draft deed of variation under the provisions of section 106 of the Act which would formally amend the Principal s106 Agreement. Its terms were discussed at the Hearing, and a completed agreement ('the DoFV') was submitted shortly after. I return to this matter below.
8. Having regard to the above and the evidence before me, the main issues are:
 - i) whether or not the loss of existing hostel accommodation on the site would be acceptable;
 - ii) the effect of the proposal on community facilities in respect of nursery provision; and
 - iii) whether or not the proposal would make acceptable provision for affordable housing.

Reasons

Hostel Accommodation

9. Part of the appeal site includes space which was last in use as a hostel known as Cairn House. The information before me indicates that Cairn House provided supported accommodation for those who had been rough sleepers, homeless or at risk of homelessness with support needs including substance misuse issues. The development under both the Parent Permission and as now proposed would result in the loss of hostel use from the site.
10. In granting the Parent Permission, the Council had referred to the SLO contribution as mitigation for the loss of the hostel. The Council further confirmed at the Hearing

that the appellant's offer to reinstate the SLO Contribution would address its objection to the appeal proposal in respect of the loss of the hostel.

11. Nevertheless, Regulation 122(2) of the Community Infrastructure Levy Regulations 2010 (as amended) ('the CIL Regulations') states that a planning obligation may only constitute a reason for granting planning permission for a development if the obligation is necessary to make the development acceptable in planning terms; directly related to the development; and fairly and reasonably related in scale and kind to the development. These tests are also referenced in Paragraph 58 of the National Planning Policy Framework ('the Framework').
12. In considering the loss of the hostel use and whether mitigation would be necessary, the Council refers to Policy DM 24 of the Core Strategy 2012 ('the CS') which indicates that the net loss of community facilities will be resisted unless specified circumstances apply.
13. The definition of community facilities within the supporting text to the policy does not include hostels or indeed any form of housing. I acknowledge that the examples given in the definition do not form a closed list. However, they are typically facilities which the public can access and which the definition notes provide a focus for a range of social, cultural and other activities. In contrast, Cairn House provided a specific form of accommodation which was available only to certain occupiers, and accessible only by referral such that it was not open to or providing a service available to the wider public, nor providing a focus for the community. I note that the hostel was operated by a charity and that the definition does refer to services provided by the community and voluntary sector. Nevertheless and while I appreciate that hostels provide an important service, I am not persuaded when considering its accessibility and role that Cairn House would sit comfortably within the CS definition of a community 'facility' for the purposes of CS Policy DM 24. In my view, the requirements of this policy should not therefore apply in respect of the hostel.
14. Similarly, Policy K6 of the K+20 Kingston Town Centre Area Action Plan 2008 ('the AAP') sets out that proposals involving the loss of facilities for, amongst other things, the community and faith and voluntary sectors will be refused unless replacement facilities are provided. Noting however the reference in the supporting text to facilities playing an important role in the social infrastructure of the town centre and adding to its diversity and interest and my findings above in respect of the limited access and role of the hostel, I am again not persuaded that the hostel should be considered as a 'facility' for the purposes of this policy.
15. However, Policy GG1 of the London Plan 2021 ('the LP') is broader than CS Policy DM 24 and Policy K6 of the AAP and seeks access to good quality community spaces, services, amenities and infrastructure that accommodate, encourage and strengthen communities. Although I would not describe it as a community facility, I consider that hostel accommodation would still provide a service that could accommodate, encourage and strengthen communities.
16. Furthermore, Policy DM 14 of the CS states that the Council will resist the loss of existing accommodation (of all types). Notwithstanding that the proposal would result in a net gain of housing overall, there would be a loss of hostel accommodation as a specific type of specialist housing. Policies H8 and H12 of the LP additionally include requirements broadly seeking the retention of supported and

specialised housing which meets an identified need, and for hostels that meet an identified need to be satisfactorily re-provided to an equivalent or better standard.

17. I note that Cairn House hostel has been closed since 2021. Furthermore, the Council's report on the Parent Permission scheme included representations advising that all former residents had been offered alternative accommodation. However, while those individual residents may have been able to access other accommodation, that would presumably have affected available capacity elsewhere and does not indicate a lack of need more generally. In general terms, I have no firm reason to doubt that there would remain a need for support and housing in the Borough for rough sleepers and people who are homeless or at risk of homelessness including those with complex needs including substance misuse issues which Cairn House would formerly have played a role in meeting.
18. The appellant has drawn my attention to the Council's Homelessness and Rough Sleeping Strategy 2022-27 ('the HRS Strategy') which they argue demonstrates a shift in the approach to meeting needs away from traditional hostel models to more dispersed forms of self-contained accommodation. However, while that may be the case generally, the HRS Strategy does also highlight a lack of supported accommodation for those with complex needs which would include needs that were previously supported at Cairn House. It seems to me that appropriately addressing such needs would be likely to face real challenges in self-contained accommodation where a dedicated support presence would not be available.
19. I appreciate that the HRS Strategy was produced subsequent to the closure of Cairn House and that it does not specifically refer to this site, nor indicate that the suggested lack of supported accommodation for those with complex needs derives specifically from its closure.
20. However, I have also been provided with a 2023 report by the Centre for Public Innovation on 'Housing Support for Rough Sleepers with Drug and Alcohol Issues, and those at Risk of Rough Sleeping in Kingston' ('the CPI Report'). This does refer specifically to the closure of Cairn House (as well as a separate scheme known as the Joel Project) leading to a gap in provision for some of the most vulnerable in Kingston. The CPI Report further indicates a housing need for a similar level of capacity as was offered by Cairn House and the Joel Project suggesting that the accommodation that was provided by these services went a considerable way to meeting the accommodation needs of those with drug and alcohol issues in Kingston.
21. Notwithstanding that individual former residents of Cairn House may have been offered alternative accommodation, I have not been provided with any compelling evidence to challenge the suggested level of housing need for those with drug and alcohol issues more generally as identified in the CPI Report. From the evidence before me, it appears that such housing needs which Cairn House would at least in part have been able to meet are now going unmet, and I am in little doubt that the closure of Cairn House has contributed to the current gap in provision.
22. The appellant advises that the Council currently receives funding from external government sources and has secured significant funding allocations to deliver outreach, support, emergency accommodation and new housing for rough sleepers. Nevertheless, there remain funding gaps to be met by general fund contributions. Moreover, even if grants or wider Council resources could in theory

be used to meet needs that were formerly accommodated on the appeal site, this would necessarily mean that those funds would not then be available for other areas or priorities. In my view, the potential detrimental effect on meeting needs that might otherwise be addressed by available public funding would not be reasonable or justified in order to effectively facilitate a development of the appeal site for profit, whether or not this development could also offer wider benefits.

23. I acknowledge that the hostel on the appeal site has been closed for some years. The appellant indicates that the closure followed the former operator's decision to withdraw from operating in the Borough and that the Council had not extended a contract. Whatever the reason for the closure however, I consider given the above that it is far from clear that general needs formerly supported on the site are being adequately met in alternative ways. I am not therefore satisfied that the function of the hostel has been successfully replaced. Instead, I find that there has been a real and significant adverse effect on the area's ability to meet needs of rough sleepers, homeless and people at risk of homelessness including with complex needs.
24. Moreover, it has not been argued that the period of vacancy has altered the lawful use of the hostel in planning terms, and I have no firm evidence to demonstrate that the site could not meet specialist housing needs again. Indeed, the appellant advised at the Hearing that the hostel accommodation was being refurbished with a view to being occupied in accordance with the extant use. Notwithstanding the recent period of vacancy, it therefore seems to me that in the absence of the proposed development, the site could continue to contribute to meeting specific housing needs in the borough in some form, relieving overall pressure associated with demand for such accommodation.
25. Given all of the above, I cannot agree with the appellant that there is no identified need for the existing hostel use on the site, even if it is not currently in active use. Nor that there are existing suitable and adequate alternative means to replace the hostel and meet needs elsewhere or in different ways.
26. Instead, I find that granting permission for the loss of hostel floorspace without mitigation would have a significant adverse effect on the Borough's ability to provide services and to meet specific identified housing needs of part of the community. Having regard to the significant resource implications noted in the CPI Report of supporting those in housing need in a reactive and unstructured way and the consequences for vulnerable people and the wider community as a whole, a failure to meet these specific housing needs would in my judgement result in serious and substantial harm.
27. It would also conflict with Policies DM 14 of the CS and GG1, H8 and H12 of the LP, as well as the Framework insofar as it emphasises the importance of ensuring that the needs of groups with specific housing requirements are addressed and seeks provision of facilities and services that the community needs.
28. I return to consider the benefits of the proposal in more detail as part of my planning balance below. Suffice to say at this point though that even taken alone and noting the shortfall in general housing supply, I consider the adverse effects in respect of the loss of the hostel noted above would significantly and demonstrably outweigh the benefits of the proposal when assessed against the policies in the Framework taken as a whole.

29. That said, the appellant has as part of the appeal reinstated an offer of the SLO Contribution which was agreed as part of the Parent Permission to be used towards the delivery of supported living and outreach provision in the Borough. In view of the above, I consider that delivery of alternative supported living and outreach provision would be required to mitigate the loss of hostel accommodation on the site and the consequent harm that I have found would otherwise occur. In principle, I am therefore satisfied that the SLO Contribution would be necessary to make the development acceptable in planning terms.
30. In addition, while the Council's 'CIL Compliance Statement' is a relatively brief document, it explains that the contribution would be used to fund the build of accommodation for those actively engaged in treatment services and who are stable in treatment where onsite support and treatment services are available as well as move-on abstinence-based accommodation. Specific projects are not identified, but I am satisfied that the contribution and its use for this purpose would be directly related to the proposed development which would result in loss of accommodation of this type.
31. The tests at Regulation 122(2) of the CIL Regulations further require that the SLO Contribution would be fairly and reasonably related in scale and kind to the development. In this respect, I appreciate that the Council's CIL Compliance Statement does not explain the basis for the amount of the SLO Contribution, and I was informed at the Hearing that it does not reflect any standard formula or calculation. Instead, it appears to be a somewhat arbitrary figure put forward during the assessment of the Parent Permission scheme. However, I note that the amount of the SLO Contribution was reduced during the course of the assessment of the Parent Permission scheme in light of viability considerations, and there is no firm evidence to suggest that it would fully meet, far less be excessive relative to the costs that would be associated with delivering alternative provision equivalent to existing accommodation on the appeal site.
32. Moreover, I am mindful of the background of the Parent Permission, without which the appeal proposal could not exist. As the appellant notes, the Parent Permission effectively establishes the loss of the hostel from the site, but this was subject to the SLO Contribution and the appeal proposal without mitigation would be unacceptable. Viewed and considered within and against this context and in the specific circumstances of this case, the SLO Contribution would in my judgement be fairly and reasonably related in scale and kind to the development that is now before me in this appeal. While the amount would exceed the level of contribution that the main parties indicate would be technically viable, the appellant refers to reinstatement of the contribution as a commercial decision and there is no firm evidence that it would threaten unduly the development's deliverability or prospects of coming forward.
33. On balance, I therefore consider that the SLO Contribution would meet the tests at Regulation 122(2) of the CIL Regulations and may be taken into account.
34. Drawing these matters together, I find that the proposal without the SLO Contribution would result in unacceptable loss of hostel accommodation on the site in conflict with Policies DM 14 of the CS and Policies GG1, H8 and H12 of the LP which would warrant dismissal of the appeal.

35. However, the SLO Contribution would enable reprovision of hostel accommodation to meet needs for this type of accommodation, offering mitigation for the loss of the existing hostel in general accordance with Policies GG1 and H8 of the LP. In strict terms, the loss of the hostel would still be contrary to Policies DM 14 of the CS and H12 of the LP insofar as they resist loss of housing of all types and seek retention of supported and specialised housing which meets an identified need. Nevertheless, I conclude that the provision through the SLO Contribution for replacement services means that adverse effects on the Borough's ability to meet specific housing needs would be much reduced such that the loss of hostel accommodation on the site would cause limited harm in practice.

Community Facilities - Nursery

36. The Parent Permission includes a new community use space, as well as a 472sqm nursery on parts of the ground and first-floor levels of the building together with associated outdoor space. The Council's report for the Parent Permission referred to these elements as replacement community facilities offering mitigation for an overall reduction in community floorspace on the site which currently includes space which had been used as a nursery and a church.
37. Under the appeal proposal, the community use space would remain, but the nursery would have a reduced area of 285sqm and would only occupy space at ground-floor level. There would also be a reduction in the area of the outdoor space associated with the nursery, but this would effectively reflect the smaller internal area and there would remain at least a similar ratio of outdoor space provision to that proposed through the Parent Permission scheme.
38. Nurseries are specifically mentioned in the definition of 'community facilities' set out in the supporting text to Policy DM 24 of the CS. However, while the appeal proposal would result in a reduction in nursery floorspace relative to the Parent Permission scheme, which would in itself provide less floorspace in nursery use than the existing site, there would remain a nursery facility present. Despite the loss of floorspace, there would not in strict terms therefore be a loss of a nursery as a community facility which Policy DM24 seeks to resist.
39. Even if that were not the case, Policy DM 24 identifies circumstances in which the net loss of community facilities may not be resisted which include where there is evidence to suggest the facility is no longer needed or it can be re-provided elsewhere or in a different way.
40. As well as noting a number of alternative nursery and early years facilities in Kingston, the appellant has drawn my attention to the Council's own Childcare Sufficiency Assessment 2024 ('the CSA') which advises that overall, there is sufficient childcare within the borough to meet the needs of most families. Indeed, when looking specifically at early-years provision, the CSA indicates a current over-sufficiency of places. I have not been provided with compelling evidence to the contrary, nor to suggest that the CSA is not suitably robust or reasonable such that it should not be relied on. Furthermore, it appears from the timing of the CSA that its assessment would not have taken account of existing nursery space on the appeal site which would have been vacant, nor the consented nursery. On that basis, I find that the balance of the evidence before me suggests that the existing and consented nursery space on the site is not specifically needed to address requirements.

41. Moreover, the appellant's evidence includes comments from the intended nursery operator indicating that the amount of floorspace now proposed would be adequate to accommodate a nursery of typical size given requirements around the space needed per child. They further advise that the layout and configuration of accommodation over a single level would be more efficient and would offer benefits in terms of safety, security and management over the Parent Permission development such that it would be better suited to their needs and operating model overall. The Council has offered no compelling challenge to this evidence. In effect, I am therefore satisfied that the reduced floorspace would result in successful reprovision of the nursery facility in a different way.
42. Even if I were to treat the reduction in nursery floorspace as resulting in loss of a community facility, my findings that the existing and consented nursery is not specifically needed and that the proposal would offer suitable reprovision mean that this is not a case where Policy DM 24 of the CS indicates development should be resisted. I am further satisfied that the proposal would provide access to good quality community space, services, amenities and infrastructure as sought by Policy GG1 of the LP, and a replacement facility in accordance with Policy K6 of the AAP.
43. Notwithstanding the reduction in nursery floorspace, I therefore conclude that the proposal would not cause unacceptable loss or degradation of community facilities in respect of nursery provision. The appeal proposal would not result in conflict with Policies DM 24 of the CS, K6 of the AAP or GG1 of the LP that would not occur under the Parent Permission. Nor would it offend the Framework insofar as it seeks to guard against unnecessary loss of valued facilities or services.

Affordable Housing

44. Policies CS 10 and DM 15 of the CS and H4 and H5 of the LP together broadly seek to maximise the delivery of affordable housing. They include requirements outlining minimum levels of affordable housing to be provided as part of development, and expect provision on-site other than in exceptional circumstances.
45. In making the appeal application, the appellant had proposed a financial contribution towards affordable housing. A review of the appellant's financial viability assessment carried out on the Council's behalf indicated that a contribution of £585,926 would be viable, and this figure was not disputed by the appellant at the Hearing. However, that amount assumes no SLO Contribution.
46. I have found above that the SLO Contribution would be necessary to address the harm and development plan conflict that would otherwise arise through the loss of the hostel from the site. Given this requirement and that the SLO Contribution would exceed the amount of the identified potential affordable housing contribution, the evidence before me indicates that the development would be unable to viably support affordable housing. Indeed, the Council did not dispute at the Hearing that it would be unviable for a development including the SLO Contribution to support any affordable housing provision, whatever the mode of delivery.
47. On that basis, I find that the development could not viably sustain any contribution towards affordable housing and provision at 0% would be appropriate. Although this would fall significantly short of the minimum targets outlined in Policies DM 15 of the CS and H4 and H5 of the LP, it would accord with these policies insofar as they indicate that lower levels of affordable housing may be acceptable where justified by detailed viability evidence.

48. Furthermore, it is not necessary for me to go on to consider whether or not exceptional circumstances to accept a financial contribution rather than on-site affordable housing provision have been robustly evidenced as this could not alter my conclusion that no affordable housing would be viable in any event.
49. For these reasons, I conclude that the proposal without any provision for affordable housing would be justified and would be acceptable in accordance with Policies CS 10 and DM 15 of the CS and H4 and H5 of the LP.

Other Matters

50. The evidence before me includes reference to a number of listed buildings in the general vicinity of the appeal site². In accordance with Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990, I have had special regard to the desirability of preserving listed buildings, their setting and any features of special architectural or historic interest which they possess.
51. In granting the Parent Permission, the Council concluded that there would be no harm to the setting of listed buildings. The amendments now proposed would result in a slight reduction in the height and overall bulk and mass of the upper part of the development, but other changes to the form and design of the building would be limited. Based on my observations and the information before me, I am satisfied that the development as amended would continue to sit comfortably within its surroundings and would not be unduly prominent in views to or from any of the referenced listed buildings, nor otherwise detract from the quality or character of the existing urban area which forms their broader setting. Accordingly, I agree with the main parties' positions at the Hearing that the proposal would preserve the setting of listed buildings.
52. Also in granting the Parent Permission, the Council identified that the development would have failed to achieve the Urban Greening Factor required by Policy G5 of the LP, and that it would be contrary to Policy D9 of the LP which concerns tall buildings.
53. However, the appeal proposal would now achieve an Urban Greening Factor in excess of the required level such that it would comply with LP Policy G5. In addition, the Council did not dispute that the reduction in height from the Parent Permission means that the development would no longer meet the definition of a 'tall building', and consequently would not conflict with LP Policy D9. Accordingly, these factors would no longer weigh against the appeal proposal. Indeed, the Council accepted that the level of urban greening would now represent a benefit, albeit limited, of the proposal and I agree.
54. The Council's report on the Parent Permission scheme found that the development would result in loss of light, outlook and privacy for some neighbours and that while such effects would not be unusual in an urban area, it would be a disbenefit of the scheme carrying moderate weight against the proposal. There is no updated daylight and sunlight assessment for the appeal scheme, but I consider it reasonable to anticipate that the reduced height and massing of the development now proposed could reduce effects on light to neighbouring properties in comparison to the Parent Permission. Visual dominance would be similarly

² The Grade II* listed Cleaves Almshouses, 105 London Road and Lovekyn Chapel; and Grade II listed Boundary Wall to Tiffin School, Elmfield Tiffin School, Bentalls Depository, Kingston Grammar School, Church of St Peter, 30 Old London Road, 43-47 Old London Road, Vine House and Former Granada Cinema.

reduced, and the omission of residential windows at seventh floor level would also reduce overlooking. I consequently find that the proposal would result in reduced effects on neighbouring living conditions from the Parent Permission scheme. Although I consider that there would remain some detriment relative to the existing situation, I am satisfied that the degree of detriment would not be significant, particularly within an urban area. It is nevertheless a harm to be weighed in the planning balance, albeit that the degree of this harm has now been reduced relative to the Parent Permission scheme.

Planning Balance

55. The Council confirms that it is unable to demonstrate a 5-year supply of deliverable housing sites, with a current supply position of 1.48 years. This is a considerable shortfall. I also note the results of the Housing Delivery Test 2024 at 48% indicating past-delivery well-below required levels. On both counts, the presumption in favour of sustainable development outlined at paragraph 11 d) of the Framework would therefore be engaged.
56. There are no Framework policies that protect areas or assets of particular importance which would provide a strong reason for refusing the development. The presumption therefore provides that planning permission should be granted unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits when assessed against the policies in the Framework taken as a whole having particular regard to key policies for directing development to sustainable locations, making effective use of land, securing well-designed places and providing affordable homes.
57. I have found above that the development would make acceptable provision for affordable housing, even in the absence of any contribution.
58. Although the proposal would result in the loss of the hostel from the site contrary to provisions of Policies DM 14 of the CS and H12 of the LP, the SLO Contribution would provide mitigation. Any remaining adverse effect on the Borough's ability to provide services and to meet specialised housing needs contrary to objectives in the Framework seeking provision of facilities and services that the community needs and to ensure that the needs of groups with specific housing requirements are addressed would be much reduced, and harm would be limited.
59. Similarly, the proposal would result in a reduction in community floorspace on the site. However, the Council's assessment of the Parent Permission acknowledged that existing community accommodation on the site is not well suited to modern standards in terms of layout and accessibility. I have no firm reason to take a different view and from the information before me am satisfied that the community space now proposed would be of suitably high-quality and fit for purpose. Moreover, I have found that there would not be unacceptable loss or degradation of community facilities in respect of nursery provision resulting in conflict with Policies DM24 of the CS, K6 of the AAP or GG1 of the LP that would not occur under the Parent Permission. I am also satisfied that the proposal would not harmfully reduce the community's ability to meet its day-to-day needs so as to conflict with the Framework in this respect.
60. Consistent with the Council's assessment of the Parent Permission scheme, I therefore afford limited weight to the loss of existing hostel and community facility floorspace currently on the site.

61. There would be some harm to living conditions for neighbouring occupiers contrary to the Framework insofar as it seeks a high standard of amenity, but the degree of harm would not be significant, particularly within an urban area, and would in fact be reduced from that which would occur under the Parent Permission scheme.
62. Furthermore, the proposal would no longer result in conflict with Policy D9 of the LP in respect of tall buildings or under-provision of urban greening as would be the case with the Parent Permission where the Council attributed minimal weight to these aspects as factors weighing against the proposal.
63. On the other hand, the information before me suggests a number of benefits of development. In theory, the Parent Permission would also deliver benefits. However, the evidence before me indicates that the Parent Permission scheme is no longer viable. It therefore seems unlikely to deliver these benefits in practice.
64. The appeal development would no longer include provision for affordable housing, but would still make effective use of a brownfield site within Kingston to deliver homes. In itself, a net gain of 35.9 dwellings which the Council indicates would be the contribution accounting for the loss of existing hostel and student accommodation would have a relatively modest effect on reducing the current housing supply shortfall. Even so, the Framework seeks to significantly boost the supply of housing. It notes that small and medium sized sites such as this can make an important contribution to meeting the housing requirement of an area, and further directs that substantial weight should be given to the value of using suitable brownfield land within settlements for homes and other identified needs.
65. The proposal would make a small but still important contribution towards meeting needs for housing that are currently going unmet. In view of the context above, and given the current housing supply shortfall, the delivery of housing on the site would be an important benefit attracting substantial weight.
66. Furthermore, the proposal includes a significant proportion of 3-bedroom dwellings which would be capable of family occupation. The Framework seeks an appropriate mix of housing types for the local community and noting that the availability of family housing is a concern cited in the CS, I agree with the main parties that this provision would attract moderate weight as a benefit of the development.
67. Economic benefits associated with the construction process would be temporary, but there would also be longer-term economic and social benefits through spending and support for local services by future occupiers, as well as opportunities for employment on the site. That said, the extent of the benefits would be likely to be fairly limited on account of the scale of the development and I afford them moderate weight.
68. Although there would be a reduction in the quantum of floorspace in community use on the site, replacement facilities would be suitably high quality and fit for purpose. This would include the nursery, as well as community use space that would be made available to the wider community in accordance with a management plan including provision for controls on costs, and I afford moderate weight to the provision of these facilities as a benefit of the proposal.
69. The development would additionally be in an accessible and well-connected location supporting travel by sustainable transport modes, and it would offer biodiversity enhancements, urban greening in excess of the required standard and

energy efficient buildings. I afford moderate weight to these environmental benefits, as well as moderate weight to enhancements to townscape and the public realm.

70. As with the Parent Permission, the proposal would conflict with aspects of some development plan policies. Nevertheless, and in contrast to development without the SLO Contribution, the harm that would be caused by the proposal including the SLO Contribution would not in my view be substantial such that paragraph 125. c) of the Framework would indicate that approval for use of this brownfield land for homes should not be approved. Moreover, the residual adverse impacts of the development with the SLO contribution would not come close to significantly and demonstrably outweighing the cumulative benefits when assessed against the policies in the Framework taken as a whole.
71. In these circumstances, the presumption in favour of sustainable development set out in paragraph 11 d) of the Framework applies and indicates that permission should be granted, and I find that material considerations including the Framework indicate that a decision should be taken other than in accordance with the development plan.

Planning Obligation

72. In addition to the SLO Contribution and provision of affordable housing, the Principal s106 Agreement secured a number of planning obligations relating broadly to highway and public realm enhancements, achievement of carbon targets and payment of a carbon offset contribution; parking permit restrictions; provision for connection to a district heating network; car club membership; a travel plan and monitoring; public art; community use of spaces; and access to amenity spaces.
73. The majority of these obligations would be unchanged by the DoFV. The DoFV does outline a series of changes in relation to affordable housing provision; in effect, providing for a financial contribution rather than on-site provision with associated changes to review mechanisms, as well as changes to refer to the updated viability information in respect of the appeal scheme.
74. The DoFV also provides for changes to the Principal s106 Agreement in relation to a carbon offset contribution to reflect updated information and targets set out in an Energy Strategy Review dated June 2024, as well as an update to the definition of 'community use management plan' to reflect the appeal scheme plans.
75. In addition, Clause 5.3 of the DoFV provides that if my decision states that no SLO Contribution is payable then the affordable housing contribution is payable; and that if my decision states that no affordable housing contribution is payable, then the SLO Contribution is payable. I have found above that the proposal would be unacceptable without the SLO Contribution, that the SLO Contribution would meet the tests at Regulation 122(2) of the CIL Regulations, and that payment of this contribution renders any provision of affordable housing unviable. Accordingly and for the avoidance of doubt, my findings are that no affordable housing contribution is payable, but that the SLO Contribution is payable.
76. However, while I have determined that no affordable housing contribution should be payable at the current time, the viability review mechanism in the Principal s106 Agreement as amended by the DoFV would remain necessary to address requirements of LP Policy H5.

77. With the exception of the affordable housing contribution, I am satisfied from the evidence before me that the obligations in the Principal s106 Agreement remain necessary to make the development acceptable in planning terms, and the amendments made by the DoFV ensure that the obligations secured are directly related and fairly and reasonably related in scale and kind to the development. I am therefore satisfied that these obligations accord with the tests at Regulation 122 of the CIL Regulations and in the Framework, and I have taken the obligations other than the affordable housing contribution into account.

Conditions

78. The Government's Planning Practice Guidance makes clear that permission granted under Section 73 of the Act should restate the conditions imposed on the earlier permission that continue to have effect, but should not extend the time limit under which the original permission must be started.
79. I have considered suggested conditions in light of the discussion and amendments proposed at the Hearing, and against the tests set out in the Framework. Where necessary, I have made minor amendments to conditions to ensure compliance with these tests or for clarity, brevity or consistency. In the interests of clarity and consistency, I have also maintained the order and numbering of conditions stated on the Parent Permission.
80. I have imposed a revised time limit for commencement in accordance with the original permission (condition 2). To reflect the development that is now proposed, I have however imposed a replacement condition specifying the relevant plan numbers (condition 1) which remains necessary for the avoidance of doubt and in the interests of certainty as well as a replacement condition referencing the Fire Statement (condition 44) which is necessary in the interests of fire safety.
81. Conditions 4, 29 and 34 of the Parent Permission required submission of information for approval. The conditions have since been discharged, but the reasons for them remain relevant in the interests of air quality (condition 4), highway safety and neighbouring living conditions (condition 29) and resource efficiency (condition 34). I have therefore imposed replacement versions of these conditions requiring adherence to the approved details. In respect of condition 4, I have imposed the version which was agreed between the parties during the Hearing.
82. To avoid duplication, I have omitted condition 42 which would replicate requirements of replacement condition 4. I have substituted a replacement condition 6 which addresses the requirements of both conditions 6 and 7 of the Parent Permission and which is necessary in the interests of health and the environment. Given that this condition requires a verification report for remediation work, the main parties agree that a separate condition requiring a closure report which would cover the same material is not necessary and I have consequently omitted condition 8 of the Parent Permission which sought this. I have also substituted a replacement condition 11 which addresses the requirements of both conditions 11 and 12 of the Parent Permission and which is necessary in the interests of living conditions.
83. In addition, the requirements of conditions 26 and 32 of the Parent Permission would effectively duplicate aspects of the Principal s106 Agreement as amended by the DoFV which includes requirements for compliance with the submitted Energy Assessment and approval of a Carbon Targets Verification Report, and for approval

and monitoring of a travel plan. These conditions would therefore be unnecessary, and I have omitted them.

84. Condition 38 of the Parent Permission sought details of how the developer had sought to increase the Urban Greening Factor. Given that the appeal proposal would now achieve an Urban Greening Factor in excess of the policy requirement and other conditions which would ensure implementation in accordance with the approved details, this condition is now unnecessary, and I have omitted it.
85. From the information before me however, all other conditions of the Parent Permission would remain relevant and necessary for the reasons they were originally applied, and I have therefore reimposed them.

Conclusion

86. For the reasons given above, I conclude that the appeal should be allowed.

J Bowyer

INSPECTOR

Schedule 1: Conditions Where Variation is Sought

Condition 1

The approved development shall be carried out in accordance with the following drawings/details:

IF-19-04 001_Site Location Plan
IF-19-04 402 Existing First Floor Plan
IF-19-04 410 Existing Site Plan Survey
IF-19-04 104 Rev B - Proposed 4th Floor Plan B
IF-19-04 300 Rev B - Proposed Section AA B
IF-19-04 301 Rev B - Proposed Section BB B
IF-19-04 302 Rev B - Proposed Section CC B
IF-19-04 110 -Proposed Roof Plan A
IF-19-04 106 Rev A - Proposed 6th Floor Plan
IF-19-04 203 Rev A - Proposed South Elevation
IF-19-04 104 Rev D Proposed Fourth Floor Plan D
IF-19-04 105 Rev D Proposed Fifth Floor Plan D
IF-19-04 106 Rev D Proposed Sixth Floor Plan D
IF-19-04 110 Rev D Proposed Roof Plan D
IF-19-04 200 Rev C Proposed North Elevation C
IF-19-04 201 Rev C Proposed East Elevation C
IF-19-04 202 Rev C Proposed East Spread Elevation C
IF-19-04 203 Rev D Proposed South Elevation D
IF-19-04 204 Rev D Proposed West Elevation D
IF-19-04 300 Rev D Proposed Section AA D
IF-19-04 301 Rev D Proposed Section BB D
IF-19-04 302 Rev C Proposed Section CC C
IF-19-04 303 Rev B Proposed Section DD B
IF-19-04 304 Proposed Section EE B
IF-19-04 003 Rev B Proposed Block Plan B

IF-19-04 010 Rev D -Proposed Basement Plan D
IF-19-04 100 Rev E Proposed Ground Floor Plan E
IF-19-04 101 Rev F Proposed First Floor Plan F
IF-19-04 102 Rev E Proposed Second Floor Plan E
IF-19-04 002 Rev C -Proposed Site Plan C
IF-19-04 103 Rev D Proposed Third Floor Plan D
IF-19-04 304 Section EE Rev B

and shall thereafter be retained/maintained for as long as the development remains in existence.

Reason: For the avoidance of doubt and in the interests of proper planning.

Condition 44

Prior to any above ground works (excluding demolition), a detailed Fire Safety Strategy shall be submitted to and approved in writing by the local planning authority. The Fire Safety Strategy shall demonstrate how the development will achieve the highest standards of fire safety and shall include the following details:

- 1) suitably positioned outside space for fire appliances/ an evacuation assembly point;
- 2) Appropriate fire alarm systems;
- 3) Passive and active fire safety measures;
- 4) appropriate construction details to minimise the risk of fire spread;
- 5) provision of suitable and convenient means of escape/ an evacuation strategy;
- 6) provision of suitable access and equipment for firefighting which is appropriate for the size and use of the development.

The Fire Safety Strategy shall include a statement of competence. The development shall be carried out in accordance with the approved Strategy and thereafter maintained.

Reason: In the interests of fire safety and to ensure the safety of a building users in accordance with Policy D12 (Fire safety) of the London Plan 2021.

Schedule 2: Imposed Conditions

- 1) The approved development shall be carried out in accordance with the following approved plans:

IF-19-04 001 Site Location Plan
IF-19-04 402 Existing First Floor Plan
IF-19-04 410 Existing Site Plan Survey
IF-19-04_002 Rev D Proposed Site Plan
IF-19-04_003 Rev C Block Plan
IF-19-04_010 Rev E Proposed Basement Plan
IF-19-04_100 Rev F Proposed Ground Floor Plan
IF-19-04_101 Rev G Proposed First Floor Plan
IF-19-04_102 Rev F Proposed Second Floor Plan
IF-19-04_103 Rev E Proposed Third Floor Plan
IF-19-04_104 Rev E Proposed Fourth Floor Plan
IF-19-04_105 Rev E Proposed Fifth Floor Plan
IF-19-04_106 Rev E Proposed Sixth Floor Plan
IF-19-04_110 Rev E Proposed Roof Plan
IF-19-04_200 Rev D Proposed North Elevation
IF-19-04_201 Rev D Proposed East Elevation

IF-19-04_202 Rev D Proposed East Spread Elevation
IF-19-04_203 Rev E Proposed South Elevation
IF-19-04_204 Rev E Proposed West Elevation
IF-19-04_300 Rev E Proposed Section A-A
IF-19-04_301 Rev E Proposed Section B-B/West Elevation
IF-19-04_302 Rev D Proposed Section C-C
IF-19-04_303 Rev C Proposed Section D-D
IF-19-04_304 Rev C Proposed Section E-E and Indicative Detail

- 2) The development hereby permitted shall be commenced within 3 years of the grant of permission ref 21/01086/FUL as permitted on 25 November 2022.
- 3) Prior to the commencement of any development above ground level the following details shall be submitted to and approved in writing by the Local Planning Authority:
 - (i) samples of all external facing materials and fenestration;
 - (ii) details and/or samples (together with details of manufacturing specification) of the external windows, doors and hard landscaping including external lighting and boundary treatments (gates, fences etc) to be utilised in the development hereby permitted.

The development shall be implemented in accordance with the approved samples and details.

- 4) The development shall be implemented in accordance with the details set out in the Air Quality and Dust Management Plan Version 1.3, as approved by the condition discharge ref. 24/01448/CLC. In accordance with the approved details, the developer must ensure that a timetable of dust-generating activities covering each stage of the development is prepared by the appointed contractor and made available to the Local Planning Authority prior to each stage of works where such works will take place.
- 5) The development shall be implemented in accordance with the Phase 1 Geo-Environmental Assessment produced by WYG Environmental Planning Transport Ltd. Any remediation works identified by this assessment shall be completed on site, in accordance with a quality assurance scheme agreed as part of the assessment.
- 6) If, during the course of development, any contamination is found which has not been previously identified, no development shall continue until a report specifying the measures to be taken, including the timescale, to remediate the site to render it suitable for the approved development has been submitted to and approved in writing by the Local Planning Authority. The site shall be remediated in accordance with the approved measures and timescale. On completion of the agreed remediation works, a verification report that demonstrates the effectiveness of the remediation carried out shall be submitted to and approved in writing by the Local Planning Authority before the first occupation of the development by end users.
- 7) (not required).
- 8) (not required).
- 9) Prior to commencement of any above ground level works, details of sound transmission reduction measures to be installed between the following shall be submitted to and approved in writing by the Local Planning Authority:

- (i) all separating walls and floors between the Class E(f) nursery and residential flats; and
- (ii) the separating floor between the ground floor community space and residential flats.

The scheme shall be designed to be 5dB better than that given in Approved Document E (2003 Edition incorporating 2004 and 2010 amendments) of the Building Regulations (Table 0.1a, page 12) (or equivalent standard if replaced). The approved details shall be installed prior to the development being occupied and shall be retained as such thereafter.

- 10) Before any piling takes place, a piling method statement shall be submitted to and approved in writing by the Local Planning Authority. Any piling must be undertaken in accordance with the terms of the approved piling method statement.
- 11) The rating level of noise emitted from all fixed plant, machinery and equipment including associated with air moving equipment, compressors, generators or similar equipment including air source heat pumps shall be at least 5dBA lower than the existing background noise level at any given time of operation. The noise levels shall be measured or predicted 1m externally to any window at the nearest residential facade. Measurements and assessment shall be made according to British Standard 4142:2014 (or equivalent standard if replaced).

No fixed plant, machinery and/or equipment including associated with air moving equipment, compressors, generators or similar equipment including air source heat pumps shall come into operation until details of the fixed plant, machinery and/or equipment including acoustic specifications and any mitigation measures to achieve this condition have been submitted to and approved in writing by the Local Planning Authority. The fixed plant, machinery and/or equipment shall be installed and operated in accordance with the approved details.

- 12) (not required).
- 13) No gas fired boilers shall be installed and operated at any of the units hereby approved without the prior written approval of the Local Planning Authority.
- 14) Prior to commencement of groundworks involving the installation of the drainage system that will serve the development (excluding site investigations and demolition), a final detailed drainage design including drawings, supporting calculations and updated Drainage Assessment Form aligned with the Flood Risk Assessment [report ref. RMA-C2098, date: April 2021] and Drainage Addendum [date: September 2021] and associated drawings and a detailed 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 shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and thereafter maintained in accordance with the approved details.
- 15) No building hereby permitted shall be occupied until evidence (photographs and installation contracts) to demonstrate that the drainage scheme for the site has been completed in accordance with the details approved under condition 14 has been submitted to and approved in writing by the Local Planning Authority. The drainage scheme shall be managed and maintained thereafter in accordance with

the management and maintenance plan for all of the proposed drainage components approved under condition 14.

- 16) The site and building works required to implement the development shall only be carried out between the hours of 0800 and 1800 Mondays to Fridays and between 0800 and 1300 on Saturdays and not at all on Bank Holidays and Sundays.
- 17) The development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the development in accordance with the principles and objectives of Secured by Design. Details of these measures shall be submitted to and approved in writing by the Local Planning Authority prior to commencement of above ground works and the approved measures shall be implemented prior to occupation of the development.
- 18) Prior to occupation of the development hereby permitted, a Secured by Design final certificate shall be submitted to and approved in writing by the Local Planning Authority.
- 19) Notwithstanding the details shown on the approved plans, additional architectural detailing plans at scale 1:10/1:5 showing all openings (windows, doors, glazing systems); parapets; facade details, including recesses, projections and spandrels; stone and brick coursing details; balcony, terraces and wintergarden details; publicly visible railings, fences and gates; (intake and exhaust) vents, grilles and any other public visible ventilation openings; roof plant (including screening), brown roofs, PVs, other roof services; soffit details; floor-to-ceiling MVHR-related details, and other internal bulkhead details (if present); and lift overrun details shall be submitted to and approved in writing by the Local Planning Authority prior to above ground works. The development shall be constructed in accordance with the approved details.
- 20) Notwithstanding the details shown on the approved plans, additional architectural detailing plans at scale 1:10/1:5 showing the public art details; communal amenity details; boundary treatment details and privacy screening (neighbouring plot and in between dwelling balconies / terraces); public and communal seating details; and duplex front garden details shall be submitted to and approved in writing by the Local Planning Authority prior to above ground works. The development shall be constructed in accordance with the approved details.
- 21) Prior to the beneficial occupation of any unit of accommodation, a detailed hard and soft landscaping scheme including details of trees and wildflowers to be planted (including the species, size and age), and street furniture shall be submitted to and approved in writing by the Local Planning Authority. The approved scheme shall be implemented within the first planting season following completion of the development and the tree planting and landscaping shall thereafter be maintained for five years. Any trees or shrubs which die during this period shall be replaced during the following planting season, and the areas shown to be landscaped shall be permanently retained for that purpose.
- 22) Prior to the beneficial occupation of any unit of accommodation, a detailed construction and maintenance scheme for the landscaping features shall be submitted to and approved in writing by the Local Planning Authority. The submitted scheme shall include sections of the proposed green roofs, rooftop terraces and green walls demonstrating their deliverability and long term viability. The development shall thereafter be carried out and maintained in accordance with

the approved details unless otherwise first agreed in writing by the Local Planning Authority.

- 23) Before the first occupation of the development, details of secure cycle parking facilities for occupants of, and visitors to, the development, including the community use and nursery (120 spaces in total comprising 116 cycle parking spaces for the residential development, 2 cycle spaces for the community space, and 2 cycle spaces for the nursery space), including 5% of overall provision for larger and adapted bicycle shall be submitted to and approved in writing by the Local Planning Authority. These facilities shall be fully implemented and made available for use in accordance with the approved details prior to the occupation of the development hereby permitted and shall thereafter be retained for use at all times.
- 24) Refuse storage facilities and recycling facilities shall be provided prior to the occupation of the development hereby permitted in accordance with details which have first been submitted to and approved in writing by the Local Planning Authority, and shall be permanently retained thereafter. The developer and/or their successors in title shall take all reasonable steps to ensure that all refuse and recyclable materials associated with the development shall either be stored within this dedicated store/area as shown on the approved plans, or internally within the building(s) that form part of the application site, and that no refuse or recycling material shall be stored or placed for collection on the public highway or pavement, except on the day of collection.
- 25) Prior to any above ground level works forming part of the development hereby approved, details as to how the approved development has been designed to connect to a future District Heating Network in the surrounding area and provision for the development's connection shall be submitted to and agreed in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and thereafter permanently retained.
- 26) (not required).
- 27) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order (England) 2015 (as amended) (or any order revoking and re-enacting that Order with or without modification) no telecommunications equipment shall be installed on the roof of the development hereby approved without the written approval of the Local Planning Authority.
- 28) The Blue Badge parking shown on the approved plans shall be provided with a hard-bound, adequately-drained, dust-free surface prior to beneficial occupation of the development to which this permission relates and shall be permanently retained and kept free from obstruction thereafter. It shall not be used for any purposes other than the parking of Blue Badge vehicles for the occupiers of and visitors to the development.
- 29) The development shall be implemented in accordance with the detailed measures set out in Detailed Construction Management Plan dated October 2024, as approved by the condition discharge ref. 24/01448/CLC.
- 30) Prior to the beneficial occupation of the development hereby approved, a minimum of 1 Blue Badge parking space shall have been installed with active charging facilities with the remaining 2 Blue Badge car parking spaces fitted with passive provision for the charging of electric or Ultra-Low Emission vehicles. The installed

charging infrastructure shall thereafter be retained unless otherwise agreed in writing by the Local Planning Authority.

- 31) Prior to the first beneficial occupation of the development a finalised Delivery, Servicing and Waste Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall then be carried out in accordance with the approved plan.
- 32) (not required).
- 33) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), no walls, fences, gates or other means of enclosure (other than those expressly authorised by this permission) shall be erected on the site.
- 34) The development shall be implemented in accordance with the detailed measures set out in the Energy Strategy Review Revision A dated June 2024, as approved by the condition discharge ref. 24/01448/CLC.
- 35) Within 6 months of occupation of the development to which this permission relates, evidence showing that it achieves internal water usage rates of no greater than 105L per person per day, shall have been submitted to and approved in writing by the Local Planning Authority. Once approved, any measures necessary to meet the targets shall be maintained throughout the lifetime of the development.
- 36) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), no additions, extensions or enlargements to the buildings on the site (other than those expressly authorised by this permission) shall be erected.
- 37) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), no windows shall be inserted nor any other openings formed (other than those expressly authorised by this permission) at the first floor level or above.
- 38) (not required).
- 39) Prior to the occupation of the residential development hereby approved, details of privacy screens/raised planters to balconies at the fourth floor level shall be submitted to and approved in writing by the Local Planning Authority. The approved privacy screens/raised planter shall be installed prior to the occupation of the proposed flats and thereafter retained in perpetuity.
- 40) Notwithstanding Section 55 of the Town and Country Planning Act 1990 (as amended) and the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), the community premises hereby approved shall only be used for uses within Class F2 (Local Community); Class F1(a) (education) for evening use only; F1(e) public halls or exhibition halls; or F1(f) public worship or religious instruction of the Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision

equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), and for no other purposes whatsoever.

- 41) All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on site, at any time, whether in use or not, without the prior written consent of the Local Planning Authority. The developer shall keep an up to date list of all NRMM used during the demolition, site preparation and construction phases of the development on the online register at <https://nrmm.london/>.
- 42) (not required).
- 43) Ground floor windows of the proposed nursery facing Cromwell Road shall be unopenable by design in order to protect the health of building users. Rooms where windows are required to be unopenable must be mechanically ventilated with air drawn in from an area where modelled air quality is at least 10% below the annual mean exposure limits for both nitrogen dioxide and particulate matter (PM10). It is recommended that air be drawn in from roof level. NOx filtration is not deemed to be an acceptable solution to polluted air at the intake point.
- 44) The development shall be undertaken in strict accordance with the Fire Statement dated 18/09/24 as prepared by Mu Studio.
- 45) Prior to 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.
- 46) The development shall be implemented in accordance with the flood risk resilience measures identified within the submitted Flood Risk Assessment prepared by RMA Environmental dated 21 April 2021.
- 47) Prior to the beneficial occupation of the development to which this permission relates, an Ecological Management Plan (EMP) to include detailed plans of biodiversity provision, including a programme of works, including the mitigation, enhancements and recommendations set out in the Preliminary Ecological Appraisal prepared by Greengage shall be submitted to and approved in writing by the Local Planning Authority. The approved EMP shall be implemented in full.
- 48) Prior to the beneficial occupation of the development to which this permission relates, the mitigation measures described in Section 5 contained within the Bat Emergence Survey Report prepared by Greengage July 2021 shall be implemented in full.
- 49) Prior to beneficial occupation of the development hereby permitted, all windows identified on the approved drawings as obscured shall be constructed so that no part of the framework less than 1.7m above finished floor level shall be openable. Any part below that level shall be fitted with and permanently retained in obscure glazing to a minimum of level 3 on the standard scale. Any film used to achieve the

requisite obscurity level shall be non-perishable, tamper-proof, and shall be replaced immediately in the event that it ceases to result in obscurity to level 3.

- 50) Notwithstanding Section 55 of the Town and Country Planning Act 1990 (as amended) and the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (as amended) (or any Order revoking and reenacting that Order with or without modification), the nursery premises hereby approved shall only be used for purposes within Use Class E(f) (Creche, day nursery or day centre) of The Town and Country Planning (Use Classes) Order 1987 (as amended) (or in any provision equivalent to that Class in any statutory instrument revoking and re-enacting that Order with or without modification), and for no other purposes whatsoever.
- 51) A Parking Management Plan to demonstrate how the 3 Nos. parking spaces will be controlled and allocated for the use of Blue Badge holders only, shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the development hereby permitted. The development shall be carried out and maintained in accordance with the approved details.
- 52) The development shall not be occupied until details of the play area and equipment to include materiality and selected products have been submitted to and approved in writing by the Local Planning Authority. The play area and equipment shall be implemented prior to occupation of the development in accordance with the approved details, and shall be maintained for the lifetime of the development.
- 53) Prior to any above ground level works, details of external lighting shall be submitted to and approved in writing by the Local Planning Authority. The external lighting shall be installed in accordance with the approved details and thereafter retained as such unless a variation is subsequently submitted to and approved in writing by the Local Planning Authority.
- 54) No above ground construction of any residential unit hereby permitted shall begin until details of the 6 wheelchair housing units providing specification/standards in accordance with Building Regulation requirement M4(3), have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details. All other units shall be built to meet Building Regulation requirement M4 (2) 'accessible and adaptable dwellings'.
- 55) Prior to the beneficial occupation of the development to which this permission relates, measures identified within the Overheating Assessment and Ventilation Strategy prepared by JS Lewis Ltd and dated July 2021, or alternative acceptable measures (which have first been submitted to and approved in writing by the Local Planning Authority) shall be implemented in full and retained thereafter.
- 56) Prior to any above ground level works, a management plan covering the use and operation of the outside amenity areas, including hours of use of the roof level terraces shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out and managed in accordance with the approved details.

End of Schedule

APPEARANCES

FOR THE APPELLANT:

Hashi Mohamed	Landmark Chambers
Max Plotnek	MJP Planning
Emma White	Aroch Ltd
Nick Bignall	Turner Morum
Jena Ntumba	Montague Nursery
Paul Thompson	Planet Law

FOR THE LOCAL PLANNING AUTHORITY:

Drew Blackman	Royal Borough of Kingston Upon Thames
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DOCUMENTS SUBMITTED AFTER THE HEARING

- HD1 Email dated 9 September 2025 in respect of contamination planning conditions, submitted by the appellant.
- HD2 Email dated 11 September 2025 in respect of contamination planning conditions, submitted by the Council.
- HD3 Completed Deed of Variation dated 11 September 2025, submitted by the appellant.