



Appeal Decision

Site visit made on 16 December 2025

by David Wyborn BSc(Hons) MPhil MRTPI

an Inspector appointed by the Secretary of State

Decision date: 03 February 2026

Appeal Ref: APP/E5900/W/25/3369439

5 Hollybush Place, London E2 9QX

- 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 Vfund against the Council of the London Borough of Tower Hamlets.
 - The application Ref is PA/24/02177.
 - The application sought planning permission for the demolition of builder's merchants (Sui Generis) and redevelopment of the land to provide residential units (Use Class C3) over two blocks and the provision of commercial floorspace (Use Class E) at lower ground and ground level, with raised podium and associated landscaping, access and cycle parking without complying with a condition attached to planning permission Ref PA/21/02500, dated 15 September 2023.
 - The condition in dispute is No 2 which states that: The development shall be carried out in accordance with the approved drawings listed in the Schedule to this decision notice.
 - The reason given for the condition is: For the avoidance of doubt and in the interest of proper planning.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of builder's merchants (Use Class Sui Generis) and redevelopment of the land to provide residential units (Use Class C3) over two blocks and the provision of commercial floorspace (Use Class E) at lower ground and ground level, with raised podium and associated landscaping, access and cycle parking at 5 Hollybush Place, London, E2 9QX in accordance with the application PA/24/02177 dated 12 December 2024, without compliance with condition No 2 previously imposed on planning permission PA/21/02500, dated 15 September 2023, and subject to the following conditions set out in the attached schedule.

Preliminary Matters

2. Planning permission was granted in September 2023 for the redevelopment of the builder's merchants for a mixed development of residential and commercial floorspace. The residential element would contain 55 units. The scheme followed a Fast Track Route for affordable housing and the related planning agreement obligated the scheme to deliver 35.5% affordable homes.
3. The present proposal was submitted under section 73 of the Town and Country Planning Act 1990 (as amended) (the Act) to seek to vary condition 2 and the related references to affordable housing. In effect the scheme would remove the requirement to provide any affordable housing because, the appellant argues, it is now unviable to do so.

4. During the processing of the application, discussions took place between the appellant and the Council as to the various components of the viability assessment and whether or not the scheme could still provide an affordable housing contribution. As it did not appear to the appellant that agreement could be reached an appeal against non-determination was submitted.
5. At the appeal stage, the Council's consultants (Tower Hamlets Viability - THV) continued to review the submitted information and interact with the appellant's consultants (James R Brown & Company Ltd - JRBC). While there was, at the earlier stage of the appeal, disagreement regarding the percentage deficit below profit target (and some of the related figures that led to that conclusion), the Council confirmed that it agreed with the appellant's view that the scheme was no longer viable on a current day basis to provide affordable housing units on-site.
6. Nevertheless, the Council's appeal statement argued that the appeal should still be dismissed because of a disagreement over the details and methodology of the early and late stage reviews to be included in a planning agreement, in conjunction with the viability appraisal baseline input figures, and because the scheme had not been demonstrated to be deliverable, especially given the appellant's low profit figures.
7. However, further discussions have now resulted in agreement (on a without prejudice basis by the appellant and JRBC) on the early and late stage reviews and key baseline figures. An executed Unilateral Undertaking (UU), dated 21 January 2026, was submitted setting out the approach to the reviews to establish at those times whether or not a contribution to affordable housing should be made. The Council has confirmed it finds the UU acceptable.
8. I am satisfied that the approach in the UU is satisfactory and meets with the requirements of Policy H5 of the London Plan 2021, and the associated Mayor of London's Affordable Housing and Viability SPG (2017), which establishes the approach when an application does not meet the Fast Track Route for policy compliant levels of affordable housing and should follow the Viability Tested Route. These matters have therefore been resolved, although not in respect of the deliverability concerns of the Council.
9. The UU also contains obligations in relation to a wide range of other matters¹, and I will consider these later in this decision.

Main Issue

10. In the light of the above comments, the remaining issue between the main parties is whether or not the scheme needs to demonstrate deliverability, and if so, whether or not it would be acceptable in this respect.

Reasons

Deliverability

11. While the inability to provide any affordable housing at this stage has been accepted, and with the subsequent UU there is agreement in respect of the review

¹ The UU also includes obligations concerning parking permits, employment, skills, training and enterprise, highway works, code of construction practice, travel plans, affordable workspace, public realm, energy monitoring, design certification and noise risk.

mechanisms, there is still some distance between the parties in terms of the present day level of viability/profit of the scheme.

12. The Council argue that were the appellant's figures to be accepted that the scheme would not take place because of the low profitability and is therefore not deliverable. It is explained that the Mayor of London's Affordable Housing and Viability SPG (2017) and Tower Hamlets' Development Viability SPD (2017) both emphasise that viability assessments must demonstrate deliverability and realism.
13. However, profitability and the related deliverability can change through time and a scheme that may not be profitable or deliverable now may be in the future. For instance, Bank of England interest rates have been falling which could make a scheme more likely to be constructed. Furthermore, there was the package of support for housebuilding in London which was jointly announced by the UK Government and the Mayor of London on 23 October 2025. This package of proposals are intended to provide some temporary Community Infrastructure Levy (CIL) relief, a reduced affordable housing threshold, with the Fast Track Route requiring 20% affordable housing (down from 35%). A reduction in CIL payments would again help to make the scheme more likely to be viable.
14. Viability and profitability issues and, therefore, deliverability in this case relate in part to the inclusion or not of the affordable housing but the provision of affordable housing has been accepted as not being able to be included at this initial stage. The review mechanisms will help assess viability at those future times, when variables are likely to have changed, and this process has been agreed.
15. It is for the developer with the benefit of a planning permission to decide whether or not to build out a scheme and I am not convinced that a test of deliverability is in this case, in itself, a planning issue that would justify refusal of an otherwise acceptable proposal.
16. Indeed, while I note the approach of the SPG guidance mentioned above, key policies, including Policy H5 of the London Plan 2021 and Policy D.SG5 of the Tower Hamlets Local Plan 2031, do not include any specific test of deliverability to be applied when considering the planning merits of a proposal. I therefore conclude that, in this case where the UU with its review mechanisms is agreed, the concerns around the deliverability of the scheme at the present time are not matters that conflict with the development plan nor form a material planning issue of such substance that it should form a reason for refusal.

Unilateral Undertaking

17. The UU contains details in terms affordable housing requirements and, in particular, the early and late review mechanisms. These are necessary and policy compliant requirements to ensure that any uplift in profitability allows for an appropriate contribution to affordable housing. These obligations meet with the requirements of the Community Infrastructure Levy Regulations 2010 and I attach them full weight.
18. The UU includes a range of other obligations. These other obligations largely mirror those in the legal agreement that was executed in relation to the original approval. The Council has set out the need and policy justification for all these other obligations in a CIL Compliance Statement. Having examined each justification in detail I am satisfied that these other obligations, both individually

and collectively, are 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. They meet the requirements of the Community Infrastructure Levy Regulations 2010 and I attach them full weight.

Conditions

19. An approval under s73 of the Act results in a new and separate planning permission. It is appropriate, subject to the varied condition 2, to attach all those conditions from the original permission that are necessary and reasonable. I have therefore examined all the conditions and where they meet the Framework tests, I have included them in the schedule of conditions.
20. Section 73(5) of the Act confirms that planning permission cannot be granted under section 73 to the extent that it has the effect to change a condition of the previous planning permission so as to extend the time within which a development must be started. Consequently, condition 1 should provide that the scheme shall be commenced within 3 years of the previous approval on 15 September 2023.
21. In the interests of certainty, and the amended details, condition 2 is necessary to list the plans and related documents that form the development proposal.
22. It is necessary to control the external appearance of the building and site in the interests of the character and appearance of the area. The following conditions are, therefore, reasonable and necessary - 3 (facing materials), 11 (landscaping), 23 (roof top additions), 26 (control of windows), and 27 (roller shutters).
23. The development would be constructed on a fairly restricted site within an area of residential and commercial buildings, with the railway lines nearby. Works to construct the building and then occupy the site need to be undertaken in such a way so as to protect the living conditions of existing and future residents and businesses. Conditions are required to ensure that these amenities are protected and maintained. Consequently, the following conditions are reasonable and necessary: 5 (refuse and recycling storage), 8 (piling), 9 (potential contamination), 12 (communal areas and play space), 13 (Construction Environmental Management and Logistics Plan), 14 (hours of working and noise levels), 15 (Dust Management Plan), 16 (non-road mobile machinery), 17 (secured by design), 20 (deliveries and service plan), 25 (air extraction and plant operation), 28 (internal sound levels), 29 (mechanical equipment noise levels) and 30 (site waste management plan).
24. Conditions 4 (cycle storage), 6 (energy and sustainability standards), 10 (boiler and plant efficiency), 19 (electric vehicle charging), 21 (sustainable drainage) and 22 (biodiversity mitigation) are reasonable and necessary in the interests of sustainability and biodiversity. Condition 7 concerning archaeology is reasonable and necessary in the interests of protecting and recording the historic environment that the site may contain. Conditions 18 and 19 are important to ensure that the units and external environment meet requirements for disabled access. The ability to control different uses under condition 24 is necessary to ensure that the benefits accruing from the non-residential uses are realised and maintained.
25. I have not included the proposed condition restricting advertisements as these are controlled under a different regime and the condition would not meet the test that it should be relevant to planning.

Conclusion

26. I conclude that the removal of the requirement to provide an affordable housing contribution, subject to the agreed review mechanisms in the UU, has been proven on viability grounds. For the reasons explained above, the concerns regarding deliverability should not form a reason for refusal. The scheme, as amended and with the UU obligations, would accord with the development plan when considered as a whole and planning considerations do not indicate that a decision should be made otherwise. I therefore conclude that the appeal should succeed and a new planning permission should be granted.

David Wyborn

INSPECTOR

Schedule of conditions

- 1) The development hereby permitted shall begin not later than three years from 15 September 2023.
- 2) The development hereby permitted shall be carried out in accordance with the following approved plans and documents:

Plans

- 3527_PL01 – Site Location Plan
- 3527_PL02 – Existing Ground Floor Plan
- 3527_PL03 – Existing First Floor Plan
- 3527_PL04 – Existing Elevations 1+2
- 3527_PL05 – Existing Elevations 3+4
- 3527_PL06 – Existing Elevations 5+6
- 3527_PL10 Rev B – Proposed Lower Ground Floor
- 3527_PL11 Rev K – Proposed Ground Floor
- 3527_PL12 Rev A – Proposed First Floor Podium
- 3527_PL13 – Proposed Second Floor
- 3527_PL14 – Proposed Third Floor
- 3527_PL15 – Proposed Fourth Floor
- 3527_PL16 – Proposed Fifth Floor
- 3527_PL17 – Proposed Sixth Floor
- 3527_PL18 – Proposed Roof Layout
- 3527_PL30 – Proposed Elevations 1+2
- 3527_PL31 Rev A – Proposed Elevations 3+4
- 3527_PL32 – Proposed Elevations 5+6
- 3527_PL33 Rev A – Proposed Elevations 7+8
- 3527_PL34 – Elevation 1
- 3527_PL35 – Elevation 2
- 3527_PL36 – Elevation 3
- 3527_PL37 Rev A – Elevation 4
- 3527_PL38 – Elevation 5
- 3527_PL39 – Elevation 6
- 3527_PL40 Rev A – Elevation 7
- 3527_PL41 – Elevation 8
- 3527_PL45 - Sections A-A & B-B
- 3527_PL46 - Sections C-C & D-D
- 3527_PL50 Rev A – Type A02 Wheelchair Apartment Layout
- 3527_PL51 Rev A – Type A03 Wheelchair Apartment Layout
- 3527_PL52 – Type B05 Wheelchair Apartment Layout
- 3527_PL53 – Type B01 Wheelchair Apartment Layout
- 70089628-DP-SK-01 Rev P06 – Proposed Servicing and Parking Arrangement
- 70089628-DP-SK-01-TR1 – Proposed Servicing and Parking Arrangement Swept Path Analysis

Other application documents

- Design and Access Statement prepared by Stockwool and dated November 2021
- Letter from Lichfields dated 9 December 2024
- Letter from Stockwool dated 23 January 2025
- Planning Statement prepared by Lichfields and dated November 2021
- Letter from James R Brown and Co Ltd dated 19 June 2025
- Letter from James R Brown and Co Ltd dated 23 April 2025
- Letter from Lichfields dated 23 April 2025

- Letter from James R Brown and Co Ltd dated 11 April 2025
- Report from James R Brown and Co Ltd dated 17 October 2025
- Acoustic Design Statement prepared by Airo dated 5 November 2021
- Railway Noise and Vibration Survey and Assessment prepared by Airo and dated 30 May 2017
- AIRO Letter (ref: DJB/6957/L1; dated 14 July 2017)
- Review of Noise Impact Assessment prepared by Temple and dated 25 June 2017
- Air Quality Assessment prepared by Aether and dated October 2021
- Archaeological Desk-Based Assessment prepared by RPS Group and dated December 2021
- Construction Environmental Management Plan prepared by Trinity Construction Consultancy Limited and dated December 2021
- Contaminated Land Assessment prepared by Site Analytical Services dated September 2016
- Daylight & Sunlight report prepared by XCO2 and dated November 2021
- Daylight & Sunlight & Overshadowing Addendum prepared by XCO and dated 5 November 2021
- Drainage Strategy Report prepared by Heyne Tillett Steel and dated November 2021
- Energy Statement prepared by XCO2 and dated November 2021
- Fire Statement prepared by Ashton Fire and dated 5 November 2021
- Rapid Health Impact Assessment prepared by Lichfields and dated 9 November 2021
- Rapid HIA Note by Lichfields dated 22 January 2025
- Heritage Impact Assessment prepared by HCUK Group and dated October 2021
- Landscape Strategy – Rev A prepared by Standerwick Land Design and dated October 2021
- Operational Waste Management Strategy prepared by Velocity Transport Planning Ltd and dated June 2022
- Preliminary Bat Roost Assessment prepared by Applied Ecology Ltd and dated October 2021
- Preliminary Ecological Appraisal prepared by Ecology and Land Management and dated October 2021
- Statement of Community Involvement prepared by Thorncliffe/You Shout dated September 2016
- Schedule of Accommodation dated 12 December 2024
- Sustainability Statement prepared by XCO2 and dated November 2021
- Transport Assessment prepared by WSP and dated November 2021
- Utilities Statement Report produced by XCO2 and dated November 2021

- 3) No superstructure works shall take place until samples (to be provided on-site) 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 external cladding, where relevant, shall include all types of brick or other cladding material to be used, details of bond, mortar and pointing for brick and details of joints, panel sizes and fixing method for other types of cladding.

If an off-site manufactured cladding system is to be used, the full details of the system shall be provided and the mock-up panel shall include at least one junction between pre-assembled panels.

b) Details at scale of no greater of 1:10 of key junctions/bonds between materials/finishes including the elevation locations of all joints, e.g. structural, movement, panels.

c) Samples and drawings of fenestration.

Details of fenestration, where relevant, shall include, but not be limited to, glazing, reveals, jambs, head, jamb and cills and lintels of all windows and doors. Drawings shall be at a scale of no less than 1:20.

d) 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.

e) Drawings and details of shopfronts.

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

f) Details and samples of roofing including, but not limited to, details of parapets, roof edges, rooftop plant screening, lift over runs etc.

g) Details of any balconies, terraces or wintergardens and associated balustrades, soffits and drainage.

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

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

j) 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.

- 4) No superstructure works shall take place, until details of cycle storage facilities at a 1:20 scale of drawings shall have been submitted to and approved in writing by the Local Planning Authority.

The details shall reflect the cycle stores and spaces shown on approved drawing numbers 3527_PL10_B and 3527_PL11_K.

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.

- 5) The communal residential and/or commercial refuse, recycling and compostables stores shown on approved drawing number 3527_PL11_K shall be provided prior to the occupation of the development and thereafter shall be made permanently available for the occupiers of the building.

- 6) a) The development shall be carried out in accordance with the approved Energy and Sustainability Statements (by XCO2 dated 05 November 2021). 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 53.6% against the Target Emissions Rate of Part L of Building Regulations (2013) (as amended).
- c) The photovoltaic array system shall be installed prior to the first occupation of the development, have an output of no less than 21.60kWh and be retained for the lifetime of the development.
- d) Any non-residential units under 500sqm (GIA) shall achieve compliance with at least the 'Very Good' BREEAM standard. Any non-residential units over 500sqm (GIA) shall achieve compliance with at least the 'Excellent' BREEAM standard. Within 3 months of first occupation of the development the applicant shall submit the final BREEAM certificates to demonstrate the scheme has achieved a BREEAM Excellent rating which shall be certified by the awarding body.
- e) 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.
- f) 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).
- g) The development shall not be occupied until a post completion verification report, including a microgeneration certificate relating to photovoltaic array system, 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.
- 7) No demolition or development shall take place until a stage 1 written scheme of investigation (WSI) has been submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the agreed WSI, and the programme and methodology of site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.
- If heritage assets of archaeological interest are identified by stage 1 then for those parts of the site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the Local Planning Authority in writing. For land that is included within the stage 2 WSI, no demolition/development shall take place other than in accordance with the agreed stage 2 WSI which shall include:
- A. The statement of significance and research objectives, the programme and methodology of site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. Where appropriate, details of a programme for delivering related positive public benefits

C. The programme for post-investigation assessment and subsequent analysis, publication & dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

- 8) No piling shall take place until a Piling Method Statement (detailing the depth, location and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) has been submitted to and approved in writing by the Local Planning Authority.

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

- 9) No works shall take place (save for demolition works, site preparation, erection of fencing, laying of or provision of any services, laying of temporary surfaces and erection of temporary site buildings for construction purposes) until a remediation scheme to deal with the potential ground contamination of the site has been submitted to and approved in writing by the local planning authority.

The scheme shall include:

- a) A site investigation scheme, based on (Phase 1 Desk Study Report) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site;
 - i. The results of the site investigation and detailed risk assessment referred to in (a) and based on these an options appraisal and remediation strategy giving full details of the remediation and mitigation measures required and how they are to be undertaken;
 - ii. A verification plan setting out the details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (i.) are complete to a satisfactory standard; and
 - iii. A monitoring and maintenance plan, setting out provisions for long-term monitoring of pollutant linkages, maintenance and arrangements for contingency action.

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

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

- a) The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority.

or

b) Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.

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

ii. The development shall not be occupied until a post completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the local planning authority demonstrating that the site remediation criteria have been met.

10) a) Any gas-fired boilers installed within the development shall not exceed the maximum emission standard of <40mgNOx/kWh.

b) Any gas-fired CHP plant installed within the development shall not exceed the maximum emissions standards:

- Spark ignition engine: <250mgNOx/Nm³

- Compression ignition engine: <400mgNOx/Nm³

- Gas turbine: <50mgNOx/Nm³

The boilers and plant shall be maintained so as not to exceed the relevant standards for the lifetime of the development.

11) No superstructure works shall take place until a landscaping scheme has been 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 0.4.

The scheme shall include details of:

a) hard landscaping, including palette of high quality, sustainable and inclusive public realm materials including planter enclosures, accessibility features, drainage, kerbs, size and location of permeable and impermeable paving surfaces;

b) accessibility and inclusivity, including ground levels, gradients, thresholds and inclusive access provisions, characteristics and features which signal open and public access and belonging, without cues to keep away, or cues of private use;

c) Safety and greening improvements to the Green Grid and links to the Thames Path/Riverside Walk;

d) Soft landscaping, including urban greening integrated through the site including, but not limited to green roofs, green walls, ground surface planting and nature based sustainable urban drainage features integrated with the site design and designed for multiple benefits including recreation, biodiverse habitat and resilience, amelioration of heat and rain events, noise and air quality;

e) provisions for communal gardening and details of any other play and social activities supported by communal amenity spaces;

f) a Landscape Management Plan for lifetime maintenance, giving details of proactive maintenance, including watering provision for soft landscape, appropriate pest control measures not resulting in harm to the planting,

monitoring, and remediation to avoid major infestations or damage by non-chemical interventions, ensuring all drainage features fully remain operational, and provide schedules and measures to maintain or improve biodiversity as shown in the Urban Greening Factor details;

g) hard infrastructure, including lighting and light spill drawings and proposed Lux levels, drain inlets and outlets, manholes and covers for access to drainage, services and utilities, CCTV and other security measures;

h) play equipment and playable landscape features, including the location and size of each of the play areas according to age groups, situated away from higher levels of air pollution, design and playable contents and equipment well integrated into surroundings and landscape features with natural surveillance, and any other details to demonstrate compliance with the Supplementary Planning Guidance 'Shaping Neighbourhoods: Play and Informal Recreation';

i) street furniture, including street furniture palette demonstrating contribution to the area's character and supporting infrastructure for active travel, external cycle parking stands, benches, litter bins for separated collection allowing recycling, ash trays, informal and dedicated seating areas, signage and wayfinding measures including Legible London signage, and any other street furniture;

j) boundary treatments including number, location, materials and surface finishes and colours of all bollards, fences, gates, railings, walls and other access control measures and means of enclosure;

k) environmental measures to make landscape conducive, provisions for use during weather events and other microclimatic considerations such as wind, heavy rain, and heat: shade, shelter and where possible, areas of direct sunlight;

l) public art locations, fixings and materials including surface finishes and colours;

m) Urban Greening Factor and Biodiversity Net Gain tables.

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 following 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.

- 12) Prior to the completion of superstructure works, an Inclusive Communal Amenity and Play Spaces Access Management Plan regarding access for disabled users, and ensuring social cohesiveness and access of communal amenity and play areas for all residential occupants shall be submitted to and approved in writing by the Local Planning Authority.

The communal amenity and play spaces shall be completed prior to occupation of residential units they are to serve. The communal amenity and play spaces shall be operated in accordance with the Inclusive Communal

Amenity and Play Spaces Access Management Plan as approved and thereafter be permanently retained in this form.

- 13) No development shall take place, including any works of demolition, until a Construction Environmental Management & Logistics Plan have been submitted to and approved in writing by the Local Planning Authority.

The plans shall aim to minimise the amenity, environmental and road network impacts of the demolition and construction activities and include the details of:

- a) Telephone, email and postal address of the site manager and details of complaints procedures for members of the public;
- b) Dust Management Strategy to minimise the emission of dust and dirt during construction including but not restricted to spraying of materials with water, wheel washing facilities, street cleaning and monitoring of dust emissions;
- c) Measures to maintain the site in a tidy condition in terms of disposal/storage of waste and storage of construction plant and materials;
- d) Scheme for recycling/disposition of waste resulting from demolition and construction works;
- e) Ingress and egress to and from the site for vehicles;
- f) Safeguarding of buried services;
- g) Proposed numbers and timing of vehicle movements through the day and the proposed access routes, delivery scheduling, use of holding areas, logistics and consolidation centres;
- h) Parking of vehicles for site operatives and visitors;
- i) Travel Plan for construction workers;
- j) Construction lighting and timings of such, not to unduly impact on neighbouring amenity;
- k) Location and size of site offices, welfare and toilet facilities;
- l) Erection and maintenance of security hoardings including decorative displays and facilities for public viewing;
- m) Measures to ensure that pedestrian access past the site is safe and not obstructed;
- n) Measures to minimise risks to pedestrians and cyclists, including but not restricted to accreditation of the Fleet Operator Recognition Scheme (FORS) and use of banksmen for supervision of vehicular ingress and egress; and
- o) Mitigation and monitoring measures for Spills and Pollution Prevention, Noise and Vibration and Air Quality.

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

- 14) 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 and 08:00 to 13:00 on Saturdays. No works shall take place on 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(LAeqT*) at any point 1m from the façade of residential and noise sensitive commercial properties Monday to Friday, reduced to 65dB(LAeqT) on Saturdays and 65dB(LAeqT) at schools and hospitals and other noise sensitive premises.

*(LAeq,T where T = 10 hours Monday to Friday and 5 hours for Saturday).

- 15) Prior to the commencement of development, a Dust Management Plan (DMP), based on an Air Quality and Dust Risk Assessment (AQDRA), shall be submitted to and approved, in writing, by the local planning authority. The DMP shall be in accordance with The Control of Dust and Emissions during Construction and Demolition SPG 2014. The DMP will need to detail the measures to reduce the impacts during the construction phase. The development shall be undertaken in accordance with the approved plan.

During each four construction sub-phases of the proposed development (demolition, earthworks, construction, and trackout), PM10 continuous monitoring shall be carried out on site. Parameters to be monitored, duration, locations and monitoring techniques must be approved in writing by the London Borough of Tower Hamlets prior to commencement of monitoring.

- 16) All Non-Road Mobile Machinery (NRMM) used during the course of the development that is within the scope of the Greater London Authority 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance (SPG) dated July 2014, or any subsequent amendment or guidance, shall comply with the emission requirements:
- a. Prior to the commencement of the relevant part of the development details of all plant and machinery to be used at the demolition and construction phases shall be submitted to, and approved in writing by, the Local Planning Authority. Evidence is required to meet Stage IIIA of EU Directive 97/68/ EC for both NOx and PM. All Non-Road Mobile Machinery (NRMM) and plant to be used on the site of net power between 37kW and 560 kW has been registered at <http://nrmm.london/>.
 - b. Proof of registration must be submitted to the Local Planning Authority prior to the commencement of any works on site.
 - c. The NRMM used during the demolition and construction phases as detailed above must be carried out in accordance with the approved details.
 - d. An inventory of all Non-Road Mobile Machinery (NRMM) must be kept on site during the course of the demolitions, site preparation and construction phases. All machinery should be regularly serviced and service logs kept on site for inspection. Records should be kept on site which details proof of

emission limits for all equipment. This documentation should be made available to local authority officers as required until development completion.

- 17) (a) No superstructure works shall take place until design details of security (Secured by Design) measures 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 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.

- 18) a) The following residential units shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(a) 'wheelchair adaptable'.

Block A: NA

Block B: B1.1.01 (private), B2.1.01 (private)

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

Block A: A2.1.04 (Private), A2.1.01 (Private), A2.2.01 (Private), A2.3.01 (Private)

Block B: NA

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.

- 19) a) The 3no. wheelchair accessible car parking spaces shown on the approved drawings shall be provided prior to the first occupation of the development and retained for its lifetime.

b) No less than 1no. car parking spaces shall be provided with electric vehicle charging points. Passive provision for future provision of electric charging points shall be made for further 2no. car parking spaces. The

charging points as well as passive provision shall be in place prior to the first occupation of the development and retained for its lifetime.

c) The development shall not be occupied until a Car Parking Management Strategy is submitted to and approved in writing by the Local Planning Authority. The Strategy shall govern the allocation of car parking spaces, including the wheelchair accessible spaces for the lifetime of the development.

d) At no time shall any other external areas of the development save for those explicitly identified on the approved drawings be made available for parking of motor vehicles other than to facilitate essential maintenance works.

- 20) Prior to commencement of the use, a Deliveries and Servicing Plan shall be submitted to and approved in writing by the Local Planning Authority. The Plan shall include, but not be limited to, details on the arrangement of refuse collection, servicing & deliveries to residents, and servicing associated with the on-going maintenance of the development.

The deliveries and servicing of the approved uses shall not take place otherwise than in accordance with the Deliveries and Servicing Plan thus approved.

- 21) No superstructure works shall take place until a Sustainable Urban Drainage Scheme (SUDS) including on-going maintenance provisions has been submitted to and approved in writing by the Local Planning Authority.

The approved SUDS scheme shall be completed prior to the first occupation of the development and thereafter maintained in operational condition for the lifetime of the development.

- 22) 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:

- biodiverse roofs designed in accordance with 'Creating Green Roofs for Invertebrates' best practice guide by Buglife – details provided should include the location and total area of biodiverse roofs, substrate depth and type, planting including any vegetated mat or blanket (though sedum mats should be avoided if possible) and any additional habitats to be provided such as piles of stones or logs;
- 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;
- climbing plants, including ivy, honeysuckle and jasmine, on appropriate walls to provide a further source of nectar and cover for nesting birds such as house sparrows - details to include species and locations of climbers; details to include species and locations of climbers;

- bat boxes, insect boxes and nest boxes for appropriate bird species including house sparrow, swift and black redstart– details should include number, locations and type of boxes;
- 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.

- 23) No plant, water tanks, water tank enclosures, air conditioning units or other structures that are not shown on the approved plans shall be erected upon the roofs of the buildings hereby permitted.
- 24) Notwithstanding the provisions of the Town and Country Planning Use Classes Order 1987 (or any order revoking and re-enacting that Order with or without modification):
- a) the unit marked as Commercial Unit 1 on approved drawing numbers 3527_PL10_B and 3527_PL11_K shall only be used as a use falling within Use Class E(a), (b), (c) or (g) and for no other purposes (including any other use within Class E of the afore-mentioned Order);
 - b) the units marked as Commercial Unit 2 and Commercial Unit 3 on approved drawing numbers 3527_PL10_B and 3527_PL11_K shall only be used as a use falling within Use Class E (c) or (g) and for no other purposes (including any other use within Class E of the afore-mentioned Order); and
 - c) 789sqm of the commercial floorspace shall be provided exclusively for use within use class E(g)(iii) industrial processes which can be carried out in a residential area without detriment to its amenity.
- 25) Prior to any use of any of the commercial floorspace within a use falling within Use Class E(a), (b) or (g)(iii) of the Town and Country Planning Use Classes Order 1987 (or any order revoking and re-enacting that Order with or without modification), full details of internal and external plant equipment and trunking, including any heat pump equipment, building services plant, ventilation and filtration equipment and any commercial kitchen exhaust ducting/ventilation, shall have been submitted to and approved in writing by the Local Planning Authority. The details shall include extraction hoods, internal fans, flexile couplings, three-stage filtration (grease filters, pre-filters and activated carbon filters), height of extract duct discharge and anti-vibration mounting. The development shall thereafter be carried out in accordance with the approved details and all flues, ducting and other equipment shall be installed in accordance with the approved details prior to the use commencing on site and shall thereafter be maintained in accordance with the manufacturers' instructions.

The air extraction system shall be retained and maintained for the lifetime of the use in accordance with the approved details.

Flues must be at least one-metre above the highest part of the nearby buildings, and in many circumstances will need to be significantly higher. The appropriate stack height should be determined using dispersion modelling, and not only by using the Memorandum on Chimney Heights or the Technical

Guidance Note (Dispersion) (known as a D1 calculation), which are not suitable when considering annual mean NO₂ concentrations. Flues should not be 'hidden' behind structures likely to impact of the dispersion of emissions.

No hot food preparation shall take place within any of the non-residential uses hereby permitted until all relevant kitchen and hot food preparation areas have first been provided with air extraction and filtration systems designed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority.

- 26) For the life of the development, a minimum of 60% of the external glazed surface areas to the ground floor frontages of the development hereby approved shall be maintained wholly transparent, shall not be mirrored, painted or otherwise obscured by blanket window transfers placed on the glazing.
- 27) No roller shutters shall be installed on any shopfront, commercial entrance or display façade hereby approved.
- 28) 1) None of the approved residential units shall be occupied unless they have first been constructed to ensure that in regard to transportation noise (air-borne and structure-borne) sources and noise (air-borne and structure-borne) without characteristics likely to enhance its impact such as tones, impulsive elements or prominent low frequency content:
 - a. The construction accords with the core guidelines of BS8233 'Sound Insulation and Noise Reduction for Buildings' and the 5 decibel relaxation of those guidelines will only apply with the written agreement of the Council;
 - b. 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.
 - c. ground and structure-borne noise from transportation sources shall not exceed LA_{s,max} 35 dB;
 - d. 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'; and
 - e. 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.
 - f. 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 for all habitable rooms directly facing the railway lines (i.e., 35 bedrooms and 10 living/dining rooms), has first been submitted to and approved in writing by the Local Planning Authority confirming that the above minimum standards have been achieved.
- 29) 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 the granting of the planning permission. Vibration from the plant hereby approved (when assessed as per advice of the version of BS 6472 current at the time granting of the planning 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 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.
- 30) 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:
- Internal waste storage is to be provided for each residential unit (if applicable);
 - Bin stores are to be built in accordance with relevant standards;
 - Measurement of bins are to be provided in cubic meters to demonstrate there is sufficient space in bin stores;
 - Sufficient door sizes with catches or stays are to be provided;
 - The facilities are appropriately ventilated.
 - They have a suitably robust design including walls that are fitted with rubber buffers and that any pipes/services are fitted with steel cages.
 - They feature gates/doors with galvanised metal frames/hinges and locks.
 - They have sufficient capacity to service the relevant building/use.
 - They have maintenance facilities, including a wash-down tap and floor drain.
 - All bin stores are to be free from any steps;
 - Bins are to be built in accordance with relevant standards;
 - Bulky waste storage must be in its own separate storage unit away from other waste streams;
 - Information of dropped kerbs is to be provided and within 10m of trolleying distance from bin stores;
 - Waste carrying distance for residents should be maximum 30 metres to the bin store;

- 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;
- 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. The waste storage and waste collection facilities shown on 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.

End of Schedule