



Appeal Decision

Inquiry opened on 13 July 2021

Site visit made on 21 July 2021

by Paul Griffiths BSc(Hons) BArch IHBC

an Inspector appointed by the Secretary of State

Decision date: 29 October 2021

Appeal Ref: APP/A5270/W/21/3268157

51-56 Manor Road and 53-55 Drayton Green Road, West Ealing, London W13 0LJ

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Southern Grove West Ealing Ltd and Metropolitan Thames Valley Housing against the decision of the Council of the London Borough of Ealing.
 - The application Ref.202231FUL, dated 29 May 2020, was refused by notice dated 23 December 2020.
 - The development proposed was described as 'redevelopment of the site to demolish existing buildings and to provide a building over basement and part 12 and part 19 storeys comprising 2 units at ground floor in either Use Classes A1, A2, A3, D1 or D2; 144 flats over part mezzanine, and 1st to 19th floors (100% affordable); bike and bin stores; sub-station; ancillary space; private and community amenity space; and alterations to highways'.
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Preliminary Matters

1. Owing to the continuing pandemic, the Inquiry was conducted on a 'virtual' basis, using PINS' Teams platform. It opened on 13 July and closed on 23 July 2021. I am grateful to all parties for the positive way in which they approached the 'virtual' event.
2. As well as the main parties, the Inquiry was assisted by a Rule 6(6) Party: Stop the Towers¹ who were represented and participated fully. Most of the Inquiry evidence was dealt with in the traditional manner, with cross-examination, but aspects relating to living conditions, and cycle and 'Blue Badge' parking, were dealt with through discussion in a 'round table' format.
3. I carried out an unaccompanied site visit in advance of the Inquiry² when I was able to familiarise myself with the site and its surroundings. In addition, I carried out an accompanied site visit on 21 July 2021, following an itinerary helpfully agreed between the main parties and passed to me at the site visit³.
4. The description of the development proposed in the header above comes from the original application form. As set out in the Statement of Common Ground agreed between the appellant and the Council⁴, this was amended by the Council, with the agreement of the (then) applicant to read 'construction of a

¹ Referred to hereafter as STT

² On 5 July 2021

³ ID33

⁴ Referred to hereafter as SoCG (STT were able to provide comments on the document)

building with a basement level, part double-height ground floor with part mezzanine floor and 18 and 12 floors above with roof plant and communal roof garden to accommodate two flexible-use units at ground floor (A1/A2/A3/D1 or D2 Use Classes) and 144 residential units (100% affordable) on the upper floors (mezzanine to 18th floor) with associated cycle and bin stores, substation, private and communal amenity space and alterations to the highway (following demolition of existing buildings on the site)'. I have proceeded on the basis of this agreed description.

5. In the course of the Inquiry, the latest (July 2021) version of the National Planning Policy Framework⁵ was published by the (then) Ministry of Housing Communities and Local Government. The parties were able to address changes from the previous document in the course of the Inquiry⁶. I have of course used the latest version of the Framework in reaching my decision.

Decision

6. The appeal is allowed and planning permission is granted for the construction of a building with a basement level, part double-height ground floor with part mezzanine floor and 18 and 12 floors above with roof plant and communal roof garden to accommodate two flexible-use units at ground floor (A1/A2/A3/D1 or D2 Use Classes) and 144 residential units (100% affordable) on the upper floors (mezzanine to 18th floor) with associated cycle and bin stores, substation, private and communal amenity space and alterations to the highway (following demolition of existing buildings on the site) at 51-56 Manor Road and 53-55 Drayton Green Road, West Ealing, London W13 0LJ in accordance with the terms of the application Ref.202231FUL, dated 29 May 2020, subject to the conditions listed at Annex A to this decision.

Application for Costs

7. A written application for costs was made by the appellant against the Council at the Inquiry⁷. The Council's response, and subsequent comments from the appellant, were dealt with through written submissions after the Inquiry closed⁸. The application for costs is the subject of a separate Decision.

Main Issues

8. These are (1) the effect of the proposal on the character and appearance of the area (including design, and any impact on the setting and thereby the significance of heritage assets); and (2) whether the affordable housing proposed is acceptable. There are other issues too that can be bracketed under 'other matters' notably whether the proposal would provide an acceptable standard of accommodation for its residents; its effect on existing residents of the area; the approach to cycle parking; and the situation in relation to 'Blue Badge' parking spaces.
9. Underlying all that, is the need to follow the correct approach to decision-making in the light of the Council's acceptance⁹ that it cannot demonstrate a five-year supply of deliverable housing sites.

⁵ Referred to hereafter as the Framework

⁶ ID21, ID24, ID25 and ID26

⁷ ID28

⁸ ID34 and ID35

⁹ ID1 and elsewhere

Reasons

Character and Appearance

10. An analysis of the effect of the proposal on character and appearance ought to start with an analysis of the area within which the appeal site lies. The area to the north of the railway is dominated by streets of relatively low-rise, traditional housing. Some of this housing is particularly attractive, notably that within the St Stephens Conservation Area to the north of the appeal site.
11. However, the area around the point where The Avenue, Drayton Road, Argyle Road, and Manor Road join and cross the railway, and lead into Drayton Green Road, is more commercial in nature, and of a manifestly different character. This area contains the appeal site, and some non-designated heritage assets that reflect its largely non-residential character – Nos.4-24 The Avenue (which have shops and the like at ground floor level), the Drayton Court Hotel, and the Royal Mail Sorting Office. The area also contains buildings of significant size, notably the Waitrose Supermarket (off Alexandria Road), Luminosity Court (5-9 storeys), Sinclair House (4-7 storeys), Dominion House (6-12 storeys, or thereabouts), and the new, and rather smaller, West Ealing (Crossrail) Station.
12. In that context, the appeal site itself, which contains an assortment of (mostly) single-storey buildings, of poor quality, appears chronically under-used. That is especially so when one considers that it lies within the defined Ealing Town Centre, a Metropolitan Centre designated by the London Plan¹⁰. That potential for development is recognised by the inclusion of the appeal site in Site Allocation EAL 12 *West Ealing Crossrail Station*, part of the Ealing Development Sites Development Plan Document 2013¹¹ as a mixed-use development appropriate to the town centre, and compatible with the functioning of the Crossrail station.
13. EDSDPD Allocation EAL 12 sets out that the height and massing of development on this (allocated) site should both respond to the adjacent Crossrail station and to the bulk of the buildings featured at this intersection. Its bulk, scale and design should be sympathetic to the adjacent residential area, seek to enhance the setting of the locally listed sorting office, and seek to complement rather than compete with the appearance of the new Crossrail station. Further, the appeal site has a PTAL rating of 4, which will rise to 5 when Crossrail (eventually) comes into operation. Unsurprisingly, against that overall background, no-one questions the principle of development on the appeal site.
14. That leads on to the form that re-development ought to take. All agree that the proposal would undoubtedly be a tall building. It is correct to note that EDSDPD Site Allocation EAL 12 does not explicitly state that the site is suitable for a tall building. However, reflective of Chapter 11 of the Framework, and paragraph 119 in particular, LP Policy GG2 says that to create successful sustainable mixed-use places that make the best use of land, those involved in planning and development must, in summary, enable the development of brownfield land particularly on sites within and on the edge of town centres, as well as utilising small sites; prioritise sites which are well-connected by existing or planned public transport; promote higher density development in locations that

¹⁰ Referred to hereafter as LP

¹¹ Referred to hereafter as EDSDPD

are well-connected to jobs, services, infrastructure and amenities by public transport, walking, and cycling; apply a design-led approach to determining the optimum development capacity of sites; and understand what is valued about particular places and use that as a catalyst for growth, renewal, and place-making. Allied to that, LP Policy D3 looks towards the optimisation of site capacity through the design-led approach. It says, put very simply, that all development must be designed to make the best use of land in a way that is contextually appropriate.

15. In that overall context, one of the main questions informing a proper analysis of the impact of the tall building proposed is whether it optimises, rather than maximises, the obvious potential of the appeal site. There are other questions to address too. These are best expressed by LP Policy D9: Tall Buildings.
16. First of all, the policy deals with the principle of 'Locations'. We are told that Boroughs should determine if there are locations where tall buildings may be an appropriate form of development and that any such locations and appropriate tall building heights should be identified on maps in Development Plans. Tall buildings, we are told, should only be developed in locations that are identified as suitable in Development Plans.
17. The policy then goes on to deal with 'Impacts' and says that schemes should address firstly visual impacts notably the views of buildings from different distances. In long-range views, attention needs to be paid to the top of the building – it should make a positive contribution to the existing and emerging skyline and not adversely affect local or strategic views. In mid-range views, attention should be paid to the form and proportions of the building. It should make a positive contribution to the local townscape in terms of legibility, proportions, and materiality. In immediate views, attention should be paid to the base of the building. It should have a direct relationship with the street, maintaining the pedestrian scale, character and vitality of the street. Where the edges of the site are adjacent to (of relevance in this case) buildings of significantly lower height, there should be an appropriate transition in scale between the tall building and its surrounding context.
18. LP Policy D9 then sets out that whether part of a group or stand-alone, tall buildings should reinforce the spatial hierarchy of the local and wider context and aid legibility and wayfinding. Architectural quality and materials should be of an exemplary standard to ensure that the appearance and architectural integrity of the building is maintained through its lifespan. Proposals should take account of, and avoid harm to, the significance of London's heritage assets and their settings. The buildings should positively contribute to the character of the area. In many ways, this approach follows the path of the Framework, and Chapter 12 (Achieving Well-Designed Places) in particular and the references therein to the National Design Guide, and National Model Design Code.
19. In assessing those 'Impacts', there was discussion at the Inquiry about the 'landmark' quality of the building, and points were made that the area does not need such a landmark. To my mind, that is to approach the question from the wrong direction. The starting point for assessment of a tall building proposal like this one is, put simply, whether the site is worthy of the gesture.
20. Here, the site lies at the confluence of a number of roads, at the point where they cross the railway. It is directly adjacent to what will become West Ealing

Crossrail Station, an important commuter hub, in an immediate area where recently introduced buildings like the Waitrose Supermarket, Luminosity Court, Sinclair House, and Dominion House, with others to follow to the east of Dominion House, have a much greater footprint and height than buildings that prevailed in the area historically. It is clear from the aerial photographs in the evidence of the appellant, and from what I saw during my site visit, particularly from the Jacob's Ladder footbridge over the railway (to the west of the appeal site), that a spine of taller development is evolving along the path of the railway. The proposal would be seen as another part of that spine. Against that background, I take the view that a tall building on the appeal site would not look out of place. The site is clearly worthy of the gesture.

21. There is the question then to address about the height of the building. The proposal before me is not as high as was originally proposed¹². The submitted visual material demonstrates that in longer and mid-range views, the building proposed would not appear as an alien insertion into the townscape; rather it would act as an effective marker of an important nodal point. In close-up views, the impact would be greater, of course, but even in View 10 (taken from Argyle Road)¹³ it would appear logical, as an indicator of the transition from buildings of lower size and height to the north of the appeal site, to the more intensive uses, and buildings of greater size and height, around the node or hub formed by the meeting of the roads, their crossing of the railway, and the station.
22. The detailed design of the building would be an important brake on its impact in longer-, mid-, and immediate views. It would be a large building of course but it would have a clear base (which would have an active frontage that responds well to the street pattern), middle, and top. Moreover, the proportional arrangement of the facades, with vertical and horizontal bands, the use of brickwork of different colours, and the size of the openings, would give it a human scale. This banding also serves to balance out vertical and horizontal emphases so that its height is not accentuated by the elevational treatment. The junction between the taller and shorter elements has been skilfully composed and the step between them would allow a reasonable relationship to be formed with the adjoining Crossrail Station, itself an attractive, modern insertion into the area. To my mind, so long as the materials used are of the high quality proposed, a matter that can be dealt with by condition, the building would be an exemplary piece of design that would make a positive contribution to the area.
23. The concept of 'beauty' warrants attention too given the stress placed on it by STT in questions and in closing. There is I believe something of a tension between identifying a building as an exemplary piece of design which is an objective finding based on established architectural principles, and adorning a building with the epithet 'beautiful', which is a subjective one. To my mind, my finding that the building would attain a very high (or exemplary) standard of design is sufficient to justify a conclusion that the proposal does not fall foul of Government advice on the subject in the Framework, the National Design Guide, and the National Model Design Code.

¹² It was reduced in height after a consultation process

¹³ The view highlighted by the Council as that where visual impact would be at its greatest

24. Concern has been expressed about the impact of the scheme on the setting and thereby the significance of various heritage assets. As far as the St Stephens Conservation Area, a designated heritage asset, is concerned, there would be filtered views of the proposal along the Avenue¹⁴, and I am sure the proposal would be seen from other places in the conservation area too. However, it is not correct to equate visibility with harm.
25. The tall building proposed would very clearly be located well beyond the conservation area, marking a different area entirely. Its visual presence would change the setting of the conservation area, but it would have no harmful impact on its significance.
26. The identified non-designated heritage assets Nos.4-24 The Avenue, the Drayton Court Hotel, and the Royal Mail Sorting Office derive some of their significance from their setting in an area that is commercial in nature, unlike the residential areas that surround it. The proposal would serve to underline that difference and, in that way, notwithstanding the differences in height, would not detract from their settings or their significance.
27. Taking all those points together, I am of the firm view that the scheme would meet the requirements of LP Policy D9 in terms of its 'Impacts'. Moreover, and for the same reasons, I consider that the proposal optimises, rather than maximises, the potential of the appeal site, and in that way, it complies with LP Policy GG2. The design is of a standard that meets the requirements of LP Policy D3.
28. There is no doubt that the proposal would bring a significant change to the area. There is an understandable reluctance from local residents to accept the nature and extent of the change proposed. Linked to that, in terms of the 'Locations' element of LP Policy D9, the site is not identified as a suitable one for a tall building in the Development Plan. The idea that proceeding with the proposal without offering the community the opportunity to address that question through an examination process would be harmful stands alongside the many complaints I have heard and read about what is perceived to be a lack of consultation by the appellant.
29. I return to this matter below but would observe at this stage that the appeal site is, as I have set out, chronically under-used. In the light of the very much heightened housing requirement set out for the London Borough of Ealing in the LP, and the Council's failing performance in relation to those targets¹⁵, best use really does have to be made of this site. The suggestion¹⁶ that development on the site should be limited to 10 storeys, is simply untenable when, as I have found above, much, much more can be accommodated without any harmful impact on the character or appearance of the area.

Affordable Housing

30. As I have alluded to above, the Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites (with the appropriate buffer).

¹⁴ View 6

¹⁵ The Council accepts that it cannot demonstrate a five-year supply of deliverable housing sites

¹⁶ Made on behalf of the Council in evidence and taken up by STT

31. Moreover, it accepts that the level of need for affordable housing, and historic shortfalls in provision set out in the appellant's evidence. In short, the Council is delivering, at best, 40% of its objectively assessed need for affordable housing. Like the rest of the capital, the need for affordable housing in the London Borough of Ealing is acute.
32. All of the one hundred and forty-four units in the proposal would be affordable homes (that is 100% of the scheme) as defined in the LP, and the Framework. Fifty (35%) would be London Living Rent and ninety-four (65%) would be London Shared Ownership.
33. The Council, as it must, recognises that the provision of one hundred and forty-four affordable homes would be a benefit that attracts significant weight, but takes the view that the benefit would be even greater if the scheme included units in the London Affordable Rent tenure.
34. Be that as it may, the evidence shows that there are tens of thousands of Ealing households in need of intermediate tenure affordable housing. There is no provision in local or national policy or guidance that justifies ranking one form of affordable housing need over another. Indeed, Planning Practice Guidance makes clear that all households whose needs are not met by the market and who are eligible for one or more of the types of affordable housing specified in the Glossary to the Framework are in affordable housing need.
35. On that basis, the significant weight to be attached to the benefits of the proposal in this regard are in no way diluted by the forms of tenure offered. The proposal is in very clear accordance with LP Policy H5.
36. As it contains 100% affordable housing, the proposal was, initially at least, dealt with under the Fast Track Route set out in LP Policy H5. Criterion D says that developments which provide 75% or more affordable housing may follow the Fast Track Route where the tenure mix is acceptable to the borough or the Mayor where relevant. The purpose of this route is to incentivise schemes that contain a significant amount of affordable housing.
37. Much time was spent discussing this matter at the Inquiry, but it suffices for me to observe that there is nothing particularly 'fast track' about a process where Officers agree with the tenure mix at pre-application stage, only for Council Members to deem it unacceptable when the time comes for them to make a decision. If the Fast Track Route is really meant to work in that way, then to my mind, the incentive it offers is diluted somewhat.

Other Matters

38. A series of concerns have been expressed about the acceptability of the living conditions that prospective residents of the development would experience.
39. In particular, questions have been raised about heating/cooling given the orientation of some of the units. However, the appellant has set out the manner in which these issues would be addressed, and it is sufficient, in my view, to leave this matter to conditions.
40. The layout of the various flats has been carefully considered to ensure reasonable levels of privacy, and adequate daylighting. There are a number of single aspect units in the scheme, but most (90%) are south facing. Given the nature of the site, and its east-west axis, I do not regard this as a significant

drawback of the scheme especially when issues around heating/cooling have been carefully considered.

41. Potential difficulties with noise transmission between adjoining residential units, and between residential and commercial units, and from plant, or outside noise sources like the railway, or aircraft can be dealt with through appropriately worded conditions.
42. In terms of access to outside space, each of the units would have a balcony or winter gardens¹⁷. These would be large enough (five square metres or more) to comply with the requirements of LP Policy D6, and Policy 7D of the Ealing Development Management DPD¹⁸.
43. There would also be a communal garden, with play-space, on the roof of the lower element of the building which would be a useful resource for residents. The play-space would be large enough at 254 square metres to accord with the requirements of LP Policy S4. Notwithstanding that, in order to properly comply with DMDPD Policy 7D, which would require 2,160 square metres of communal garden, the appellant has agreed to make a financial contribution to improve existing parks in the vicinity. DMDPD Policy 7D allows for such a route and as such, the policy is complied with.
44. On top of all that, the evidence shows that that the proposal would have no unacceptable impact on the living conditions of existing residents of the area through loss of sunlight or daylight, visual impact, overshadowing, overlooking and resultant loss of privacy, or anything else.
45. There was a good deal of discussion about cycle parking at the Inquiry. The appellant is willing to accept a condition that sets out cycle parking requirements that accord with LP Policy T5 and London Cycle Design Standards. That, to my mind, is sufficient to ensure that cycle parking would be dealt with in an appropriate manner.
46. Issues were raised too about 'Blue Badge' parking spaces. According to the SoCG, LP Policies T6.1 and T6.5 would require at least five 'Blue Badge' parking bays to be provided from the outset, with passive provision for a further ten spaces. The proposal falls some way short of this level of provision with one specific 'Blue Badge' space being provided adjacent to the building alongside two other parking bays, and a service and delivery bay.
47. Disability is a protected characteristic and I recognise, bearing in mind the provisions of the Equality Act 2010, and my duties relative to s.149¹⁹, that this is a very important matter. However, the proposal is put forward as being 'car free' (with a prohibition on permits for the surrounding CPZ) which is laudable, and it is directly adjacent to a Crossrail Station which has step-free access.
48. In that context, I do not believe that the lack of 'Blue Badge' parking spaces need necessarily act as a deterrent to anyone with disabilities who might wish to occupy one of the units. Moreover, the provision for a financial contribution to the Council in the sum of £10,000, to allow for the provision of further 'Blue Badge' spaces in the Unilateral Undertaking²⁰ (that I deal with below), would

¹⁷ Winter gardens would principally be located on the upper levels of the building

¹⁸ Referred to hereafter as EDMDPD

¹⁹ The Public Sector Equality Duty (PSED)

²⁰ Referred to hereafter as UU

allow for the provision of such a space for any prospective occupier with disabilities who needs one. I consider that this satisfactorily addresses any potential inequality.

49. With all that in mind, and cognisant of my PSED, I do not consider the failure to accord with LP Policies T6.1 and T6.5 in this regard as determinative.

Conclusions

50. The proposal would deliver one hundred and forty-four units of much-needed affordable housing in a tall building of exemplary design that would have no harmful impact on the character or appearance of the area, or the setting and thereby the significance of heritage assets. On that basis, it would optimise rather than maximise the use of the site. Moreover, it would provide reasonable living conditions for its occupiers, and have no detrimental impact on the living conditions of existing residents of the area.
51. As a consequence, there would be clear compliance with LP Policies H5, D3, GG2, and the 'Impact' element of D9.
52. That said, there would be failure to accord with LP Policies T6.1 and T6.5 in relation to 'Blue Badge' parking spaces, and the 'Locations' element of LP Policy D9. In relation to the former, as I have set out above, the failure to accord is not determinative as alternative provision to address this matter has been made.
53. On the latter point, I would observe that bearing in mind the significant uplift from previous figures in the housing targets referred to in LP Policy H1, and the urgent need to provide new housing in the capital, it would seem to me rather obtuse to wait for the boroughs to allocate sites for tall buildings, a process that might well take years and years, before permitting a predominantly residential tall building of exemplary, and contextually appropriate, design.
54. On that basis, my judgment is that the proposal accords with the development plan read as a whole and there are no material considerations of sufficient weight to justify a decision contrary to its provisions.
55. For the sake of completeness, it is helpful to rehearse an alternative approach to decision-making. If I were to conclude that the failure to accord with LP Policies T6.1 and T6.5 in relation to 'Blue Badge' parking spaces, and the 'Locations' element of LP Policy D9 meant the proposal failed to accord with the development plan read as a whole, then other material considerations would come into play.
56. Most significant amongst those material considerations would be the Framework. The Council acknowledges that it cannot demonstrate a five-year supply of deliverable housing sites so, as all agree, the 'tilted' balance in paragraph 11 d) would apply; 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 considered as a whole.
57. It seems to me plain that in this scenario, the harmful impacts in relation to the failure to accord with LP Policies T6.1 and T6.5 in relation to 'Blue Badge' parking spaces (cognisant of the PSED), and the loss of opportunity for local people to take part in an examination process that considered the allocation of

the site for a tall (or another form of) building, would be clearly outweighed by the benefits of providing one hundred and forty-four units of affordable housing in a tall building of exemplary design that would have no harmful impact on the character or appearance of the area, or the setting and thereby the significance of heritage assets.

58. Whichever way one approaches the conclusion, the result is the same. Planning permission should be granted for the proposal.

Conditions and the Obligation

59. Discussions between the appellant and the Council around the conditions the Council would favour in the event that the appeal was allowed, and planning permission was granted, took place before and during the Inquiry²¹. This facilitated a 'round table' discussion involving all parties, including third parties, and I have considered the various conditions in the light of that discussion, and advice in paragraph 56 of the Framework.

60. This explains that planning conditions should be kept to a minimum and only imposed where they are necessary; relevant to planning and to the development to be permitted; enforceable; precise; and reasonable in all other respects. It continues to the effect that, of relevance, conditions that are required to be discharged before development commences should be avoided, unless there is clear justification. Footnote 25 sets out that sections 100ZA(4-6) of the Town and Country Planning Act 1990 will require the applicant's²² written agreement to the terms of a pre-commencement condition, unless prescribed circumstances apply. In that regard, I have treated the inclusion of pre-commencement conditions in a list agreed by the appellant as conferring that written agreement.

61. In producing a final list in Annex A, I have made a number of minor changes to the drafting, notably to remove references to outside bodies like Network Rail, Thames Water, and the Lead Local Flood Authority. If in dealing with and discharging the relevant conditions, the Council needs to discuss them with outside bodies then it can do so without the requirement being set out in the condition concerned.

62. In the first instance, a condition is necessary to deal with commencement as is another to set out the approved plans.

63. Demolition of the existing buildings and structures on the site, and the construction of the proposal, are likely to be complex processes that have the potential to cause disturbance to local residents, and potentially, lead to difficulties with the operation of the railway adjacent. On that basis, conditions are required to secure method statements and management plans for both processes. On top of that, another is needed to deal with air quality and dust management, and yet another to cover the use of non-road mobile machinery. I have deleted elements of the suggested conditions in order to avoid needless repetition.

64. In relation to existing air quality in the vicinity of the site, it is necessary to apply a condition to address ventilation of the residential units. Uncertainty

²¹ ID13, ID22 and ID27

²² And I take that to include appellants

- about historic uses of the site mean that it is necessary to attach conditions to deal with the potential for contamination of the land.
65. Surface water drainage is a matter that needs to be addressed by condition, as is fire safety. A whole series of conditions have been suggested to deal with various aspects relating to noise. Given the locational character of the site, and the sensitivity of the residential use, all are reasonable impositions.
 66. As set out above, the design of the development proposed is an important point in its favour. In order to ensure that the design quality depicted on the various drawings and visualisations is brought to fruition, it is important that the materials used are of the requisite quality. On that basis, a condition requiring details and/or samples of the materials proposed for external surfaces to be submitted for the approval of the Council is essential.
 67. Given the size of the development, and its location, deliveries and servicing need to be managed in a way that does not cause disruption to the highway, or local residents. To that end, notwithstanding material submitted with the application, a Delivery and Servicing Management Plan needs to be agreed with the Council before occupation.
 68. Cycle parking was the subject of discussion (see above) and reflective of the matters raised, it is necessary to apply a condition requiring the provision of the requisite number of cycle (including larger cycle) spaces, as well as the cycle lift, that meet the relevant standards, before occupation. Notwithstanding details submitted with the application and given the car-free nature of the development, a condition is required to secure the submission and operation of a revised Travel Plan.
 69. As disruption might result if arrangements are not properly followed, a condition needs to be applied to ensure that the refuse and recycling storage provision for the proposal, and the collection arrangements, are put in place before the development is occupied, and operated thereafter in accordance with those details.
 70. Given the nature of the proposal, with provisions for landscape at around the base of the building, and at the level of the roof garden and play space, a landscaping condition requiring the submission of details for approval is a necessity. The condition as agreed refers to planting taking place 'within the first planting season following the commencement of the development'. Given the nature of the development, that would be very difficult to achieve. As a result, I have amended the suggested condition to require the submission of a timetable for approval.
 71. Like any tall building, the potential impact of the wind microclimate needs to be effectively managed. To that end, conditions are required to address this issue at ground floor (street) level, at the level of the roof garden, on balconies, and in winter gardens.
 72. As touched on above, the proposal includes a good deal of glazing and in that context, issues may well arise in relation to overheating and cooling. In that context, a condition is essential to ensure the measures set out in the submitted report by MLM Consulting Engineers are incorporated.
 73. Given the need to manage the energy performance of the building and reduce as far as possible its carbon footprint in use, conditions are necessary to deal

- with these matters and to monitor performance once the building is in use. However, to avoid duplication with the UU, part a) of suggested condition 30 needs to be removed.
74. Similarly, conditions are needed to deal with sustainable design and construction, the whole-life-cycle carbon assessment of the development, and (a repeat of the reference in suggested condition 29 which I have removed to avoid repetition) the safeguarding of a future connection to any District Heat Network.
 75. It is necessary to ensure that lifts (passenger and cycle) are installed and operational before residential occupation and retained as such thereafter through a condition. Conditions are also necessary to set out the number of Accessible Units to be provided, and the number of Wheelchair Units.
 76. External lighting has the potential to cause issues for nearby residents, so a condition has to be applied to ensure it is installed and operated in line with relevant guidance.
 77. The hours of opening of the flexible-use units proposed at ground floor level need to be controlled by condition. The daily opening hours suggested (0730 to 2200) seem to me realistic. A condition to protect these units from subdivision or any change in use through permitted development rights is a reasonable imposition.
 78. Any water network upgrades made necessary by the development need to be dealt with by condition. However, the condition suggested needs adjustment to make clear that approval of any matters required to be approved are within the ambit of the local planning authority. Any liaison with Thames Water necessary for discharging the condition would be a matter for the local planning authority. I reach similar conclusions in relation to the suggested condition that deals with the boundary between the development and Network Rail property.
 79. Linked to that relationship with Network Rail, it is necessary to apply a condition to ensure opportunities for objects to fall from the building on to the railway are restricted as far as possible. On top of that, the nature of the development is such that there is the possibility of glare from it to affect train drivers. It seems to me that this matter has been addressed in the appellant's (August 2020) report on Reflected Solar Glare so there is no need to require the submission of fresh details. The condition simply needs to ensure that the development is carried out in accordance with the report.
 80. A condition is needed to ensure the proposal achieves 'Secured by Design' accreditation. I also asked some questions about detailed design of the proposal. On reflection, it seems to me that the conditions requiring development to be carried out in accordance with the approved plans, alongside the one requiring samples of materials, offers sufficient comfort. A condition requiring a written statement relating to the 'design intent' (suggested condition 45) is unnecessary in this context.
 81. A completed UU was submitted in the course of the Inquiry and was the subject of discussion, informed by a CIL Compliance Schedule very helpfully prepared by the Council. Mirroring the requirements of Regulation 122(2) of the CIL Regulations 2010, paragraph 57 of the Framework says that planning obligations must only be sought where they are: (a) necessary to make the

development acceptable in planning terms; (b) directly related to the development; and (c) fairly and reasonably related in scale and kind to the development.

82. The UU contains a number of Obligations relating to an education infrastructure financial contribution (£425,000); a healthcare infrastructure financial contribution (£120,000); a pedestrian and cycling infrastructure and route improvements contribution (a total of £190,000); a traffic calming measures contribution (£30,000); CPZ contribution (£20,000) and a restriction on parking permits; a Blue Badge parking bays contribution (£10,000); car club membership; TfL (bus priority measures) contribution (£144,000); Travel Plan monitoring (£3,000); parks and open space contribution (£125,000); employment and skills contribution (£16,500); carbon offset contribution (£149,133); renewable energy monitoring (£8,477); air quality improvement measures contribution (£15,000); affordable housing and an early-stage viability review; a local employment and training plan with opportunities for three apprenticeships (including an Apprentice and Local Labour Scheme Contribution of £16,500); and various highway matters including the on-street loading bay, three street trees, and visitor cycle parking on the highway (via a s.278 agreement).
83. It is clear from the Council's CIL Compliance Schedule that the various Obligations have a proper policy basis and use credible multipliers to arrive at the levels of financial contribution. The appellant accepts in the SoCG that these Obligations should be imposed in the event planning permission is granted for the scheme. On my analysis, all the Obligations are necessary to make the development acceptable in planning terms, are directly related to the development, and are fairly and reasonably related in scale and kind to the development. As such, they all meet the requirements of paragraph 57 of the Framework, and Regulation 122(2).

Final Conclusion

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

Paul Griffiths

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Katherine Olley of Counsel

Instructed by the Council of the
London Borough of Ealing

She called²³

Michael Lowndes
Senior Director, Lichfields

FOR STOP THE TOWERS (STT)

Nicholas Grant of Counsel

Instructed by STT

He called

Andrew Colvin²⁴

FOR THE APPELLANT

Christopher Katkowski QC
and Zack Simons of Counsel

Instructed by Jade Chalmers of
Howard Kennedy LLP

They called²⁵

Stephen Levrant
Principal, Heritage Architecture Ltd

Dr Chris Miele
Senior Partner, Montagu Evans LLP

Claire Dickinson
Founding Director, Quod

Will Edmonds
Partner, Montagu Evans LLP

INTERESTED PERSONS

James Murray MP
Councillor Linda Burke
Dr Gerald Power
Justine Sullivan

Member of Parliament for Ealing North
Council Member for Cleveland Ward
The Draytons Community Association
Local Resident, Member of the
Draytons Community Association, and
Co-Chair of STT
Chair of Save Ealing Centre
Ealing Cycling Campaign
Ealing Cycling Campaign

Will French
Martin Gorst
Peter Mynors

²³ Katie Crosbie and Alison Luff (Council Officers both) took part in the discussions about conditions and the various obligations

²⁴ Recorded as having been called given the active part he took across the proceedings

²⁵ Matt Sealby (Operations Director, Sweco UK Ltd.), Joseph John Ellis (Senior Director, RPS), Jeff Stokes (Director of DMWR Architects), and Jade Chalmers (Howard Kennedy LLP) took part in the various 'round table' sessions

INQUIRY DOCUMENTS

- ID1 Council's Note on Housing Land Supply
- ID2 Appearances for the appellant
- ID3 Opening for the appellant
- ID4 Opening for STT
- ID5 Opening for the Council
- ID6 Ms Sullivan's Note
- ID7 Dr Power's Note
- ID8 Note from Mr French (1)
- ID9 Information of 'Blue Badge' applications
- ID10 Ealing Cycling Club (ECC) Submissions
- ID11 List of Definitions (Council)
- ID12 Information on AMR
- ID13 Draft condition 44
- ID14 Note on density (appellant)
- ID15 Note from Mr French (2)
- ID16 ECC Note on draft condition 22
- ID17 Affordable Housing Tables (appellant)
- ID18 Response to ID15 from Mr Edmonds (appellant) (19/07/21)
- ID19 Response to ID6 (appellant) (20/07/21)
- ID20 Council's Maps and Tables (20/07/21)
- ID21 NPPF (July 2021) Track Changes Version
- ID22 Suggested Conditions v.2 (amended conditions 13, 22 and 28)
- ID23 Committee Report and Minutes of Meeting relating to Perceval House
- ID24 Appellant's Notes on July 2021 NPPF
- ID25 Council's Note on July 2021 NPPF
- ID26 STT's Note on July 2021 NPPF

ID27 Suggested Conditions v.3 (amended condition 22)

ID28 Appellant's Application for Costs

ID29 Closing (with authorities) by STT

ID30 Closing by the Council (with attachment)

ID31 Closing by the appellant

ID32 Completed Unilateral Undertaking

ID33 Site Visit Itinerary

ID34 Council's response to the appellant's application for costs

ID35 Appellant's response to ID34

Annex A: Schedule of Conditions

- 1) The development hereby permitted shall begin not later than three years from the date of this decision.
- 2) The development hereby approved shall be carried out in accordance with the following approved plans: 3545-PL-100 Rev A (Site Location Plan); 3545-PL-101 Rev A (Block Plan); 3545-PL-102 Rev A (Site Location & Ownership Plan); 3545-PL-103 Rev / (Existing Elevations); 3545-PL-104 Rev A (Existing Sections); 3545-PL-105 Rev B (Proposed Site Plan); 3545-PL-106 Rev B (Proposed Basement Plan); 3545-PL-107 Rev C (Proposed Ground Floor Plan); 3545-PL-108 Rev A (Proposed Mezzanine Floor Plan); 3545-PL-109 Rev A (Proposed 1st -12th Floor Plan); 3545-PL-110 Rev A (Proposed 13th Floor Plan); 3545-PL-111 Rev A (Proposed 14th &15th Floor Plan); 3545-PL-112 Rev A (Proposed 16th -18th Floor Plan); 3545-PL-113 Rev / (Proposed Roof Plan); 3545-PL-114 Rev B (Proposed North Elevation); 3545-PL-115 Rev B (Proposed South Elevation); 3545-PL-116 Rev B (Proposed East & West Elevation); and 3545-PL-117 Rev / (Proposed Sections AA & BB).
- 3) Prior to the commencement of demolition, a detailed site demolition method statement and management plan shall be submitted to and approved in writing by the local planning authority. The submission shall specifically consider a joint approach with the construction of any approved development on the adjoining site to minimise highways and amenity impacts of this busy location. The submitted details shall include the following: (a) the number of on-site construction workers and details of the transport options and parking facilities for them; (b) details of working hours and all associated activities audible beyond the site boundary restricted to 0800-1800hrs Mondays to Fridays and 0800-1300 Saturdays; (c) anticipated route, number, frequency and size of vehicles entering/exiting the site per day; (d) delivery times, locations and booking system (which is to be staggered to avoid morning and afternoon school-run peak periods); (e) route and location of site access for construction traffic and associated signage; (f) management of consolidated or re-timed trips; (g) details of noise and vibration mitigation measures and monitoring arrangements for noise and vibration by suitably qualified noise specialists. Noise and vibration mitigation measures must accord with the Mayor's 'Best Practice Guidance' and Approved CoP BS 5228-1 and -2:2009+A1:2014; (h) details of site security, temporary lighting and the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; (i) secure, off-street loading and drop-off facilities; (j) wheel washing provisions; (k) vehicle manoeuvring and turning, including swept path diagrams to demonstrate how construction vehicles will access the site and be able to turn into and emerge from the site in forward gear and including details of any temporary vehicle access points; (l) details as to the location(s) for storage of materials, plant and construction debris and contractors' welfare facilities and offices; (m) procedures for on-site contractors to deal with complaints from members of the public; (n) measures to consult cyclists, disabled people and the local schools with regard to delivery times and necessary diversions; (o) details of all pedestrian and cyclist diversions; (p) a commitment to be part of Considerate Constructors Scheme; (q) confirmation of use of TfL's

Freight Operator Recognition Scheme (FORS) or similar; (r) submission of evidence of the condition of the highway prior to-demolition and a commitment to make good any damages caused during demolition; (s) details of parking restrictions which may need to be implemented during demolition work; and (v) resident prior notification arrangements of when any heavy machinery work will be undertaken on site. Prior to the commencement of any demolition work, all sensitive properties surrounding the site shall be notified in writing of the nature and duration of the works to be undertaken, and the name and address of a responsible person to whom enquiries/complaints should be directed. These details shall also be displayed at regular intervals around the site construction compound. The development shall be carried out strictly in accordance with the details so approved. Any areas to be used for the storage of building materials or other site activities outside of the relevant phase of the development shall be returned to the original condition immediately following the practical completion of the works. Such details shall be implemented, and phasing agreed in writing, prior to the commencement of works on site and thereafter retained for the duration of the works.

- 4) Prior to the commencement of development, a detailed site construction method statement and management plan shall be submitted to and approved in writing by the local planning authority. The submitted details shall include the following: (a) the number of on-site construction workers and details of the transport options and parking facilities for them; (b) details of working hours and all associated activities audible beyond the site boundary restricted to 0800-1800hrs Mondays to Fridays, 0800-1300 Saturdays; (c) anticipated route, number, frequency and size of vehicles entering/exiting the site per day; (d) delivery times, locations and booking system (which is to be staggered to avoid morning and afternoon school-run peak periods); (e) route and location of site access for construction traffic and associated signage; (f) management of consolidated or re-timed trips; (g) details of noise and vibration mitigation measures and monitoring arrangements for noise and vibration by suitably qualified noise specialists. Noise and vibration mitigation measures must accord with the Mayor's 'Best Practice Guidance' and Approved CoP BS 5228-1 and -2:2009+A1:2014; (h) details of site security, temporary lighting and the erection and maintenance of security hoarding including decorative displays and facilities for public viewing, where appropriate; (i) secure, off-street loading and drop-off facilities; (j) wheel washing provisions; (k) vehicle manoeuvring and turning, including swept path diagrams to demonstrate how construction vehicles will access the site and be able to turn into and emerge from the site in forward gear and including details of any temporary vehicle access points; (l) details as to the location(s) for storage of materials, plant and construction debris and contractors' welfare facilities and offices; (m) procedures for on-site contractors to deal with complaints from members of the public; (n) measures to consult cyclists, disabled people and the local schools with regard to delivery times and necessary diversions; (o) details of all pedestrian and cyclist diversions; (p) a commitment to be part of Considerate Constructors Scheme; (q) confirmation of use of TfL's Freight Operator Recognition Scheme (FORS) or similar; (r) the submission of evidence of the condition of the highway prior to-

demolition and a commitment to make good any damages caused during demolition; (s) details of parking restrictions which may need to be implemented during demolition work; and (v) resident prior notification arrangements of when any heavy machinery work will be undertaken on site. Prior to the commencement of any construction work, all sensitive properties surrounding the site shall be notified in writing of the nature and duration of the works to be undertaken, and the name and address of a responsible person to whom enquiries / complaints should be directed. These details shall also be displayed at regular intervals around the site construction compound. The development shall be carried out strictly in accordance with the details so approved. Any areas to be used for the storage of building materials or other site activities outside of the relevant phase of the development shall be returned to the original condition immediately following the practical completion of the works. Such details shall be implemented, and phasing agreed in writing, prior to the commencement of works on site and thereafter retained for the duration of the works.

- 5) Before the development is commenced (including demolition and site clearance), an Air Quality and Dust Management Plan (AQDMP) that includes an Air Quality (Dust) Risk Assessment shall be produced in accordance with current guidance 'The Control of Dust and Emissions during Construction and Demolition' SPG (GLA July 2014), for the existing site and the proposed development. A scheme for air pollution mitigation measures based on the findings of the report shall be submitted to and approved by the local planning authority prior to the commencement of any works on the site. Development shall be carried out in accordance with the approved details.
- 6) All Non-Road Mobile Machinery (NRMM) to be used in the development site shall meet as a minimum the Stage IIIB emission criteria of Directive 97/68/EC and its subsequent amendments, unless it can be demonstrated that Stage IIIB equipment is not available. An inventory of all NRMM shall be registered on the NRMM register at <https://nrmm.london/user-nrmm/register>. All NRMM shall be regularly serviced, and service logs kept on site for inspection. Records shall be kept on site detailing proof of emissions standards for all equipment.
- 7) Prior to the commencement of the superstructure works, details of the installation in the dwellings of a filtered fresh air ventilation system capable of mitigating elevated concentrations of nitrogen oxides and particulate matter in the external air shall be submitted to and approved by the local planning authority. The details to be submitted shall include the arrangements for continuously maintaining the operational efficiency of the system. The ventilation system shall be completed in accordance with the submitted details prior to occupation and retained as such thereafter.
- 8) Prior to the commencement of any works on site (other than demolition and site clearance) and based on an approved conceptual site model (contained within an approved desk study phase 1 report IDOM /Merebrook report DS21741-18-254 Rev02 2020), the site and any previously inaccessible ground shall be investigated. The site conceptual model shall be amended based on the findings of the intrusive site investigation and the risks to identified receptors updated. This

assessment must be undertaken by a competent person, and shall assess any contamination on the site, whether or not it originates on the site. The findings of the site investigation and proposed remedial options shall be submitted to the local planning authority for approval in writing prior to any remedial works and/or any development works commencing.

- 9) A detailed remediation scheme to bring the site to a condition suitable for the intended use shall be submitted to and subject to the approval in writing of the local planning authority. The scheme must include all works to be undertaken, proposed remediation objectives and remediation criteria. The scheme must ensure that the site will not qualify as contaminated land under Part 2A of the Environmental Protection Act 1990 in relation to the intended use of the land after remediation. The approved remediation scheme must be carried out in accordance with its terms prior to the commencement of development, other than that required to carry out remediation works.
- 10) Following completion of measures identified in the approved remediation scheme, a verification report that demonstrates the effectiveness of the remediation carried out must be produced and is subject to the approval in writing of the local planning authority. The verification report submitted shall be in accordance with the latest Environment Agency guidance and industry best practice.
- 11) Prior to commencement of the development hereby approved (excluding demolition and site clearance) a detailed surface water drainage design (including relevant specifications), and a maintenance plan, shall be submitted and approved in writing by the local planning authority (in consultation with the Lead Local Flood Authority). The development shall be carried out strictly in accordance with the approved detailed drainage scheme.
- 12) The development shall be implemented in accordance with the Fire Safety Statement (Rev 07) prepared by MLM Group, dated 18 September 2020.
- 13) Prior to the commencement of the superstructure works a noise assessment having regard to the mitigation recommendations in the report entitled 'Noise and Vibration Impact Assessment prepared by MLM, dated April 2020 (Revision 2)' (according to the assessment standard of the Council's interim SPG10) shall be submitted to the local planning authority for approval in writing, of external noise levels from transport and industrial/commercial/cultural sources (including reflected and re-radiated noise where appropriate). Details shall include the sound insulation of the building envelope including glazing specifications (laboratory tested including frames, seals and any integral ventilators, approved in accordance with BS EN ISO 10140-2:2010) and of acoustically attenuated mechanical ventilation and cooling as necessary (with air intake from the cleanest aspect of the building and details of self-noise) to achieve internal room- and (if provided) external amenity noise standards in accordance with the standards of SPG10 and internal noise criteria of BS8233:2014. A post installation sound assessment shall be carried out where required to confirm compliance with the Council's assessment standard and noise criteria. Details of the post installation test shall be submitted for the Council's approval before the premises are occupied and additional steps shall be taken as

necessary to minimise noise. Details of best practicable mitigation measures shall also be submitted for external amenity spaces to achieve these criteria. Approved details shall be implemented prior to occupation of the development and retained as such thereafter.

- 14) The site is within the worst mode aircraft 1-day noise contour predicted for 2016 (60 dB). Prior to commencement of the superstructure works, details shall be submitted for approval by the local planning authority in writing, for the insulation of the building envelope, with windows shut and other means of ventilation provided, which will achieve the internal criteria for sensitive rooms, as specified in Supplementary Planning Guidance 10. The details should also include the provision of alternative means of ventilation in accordance with authority's criteria. The works shall be completed before occupation and permanently retained thereafter.
- 15) Prior to commencement of the superstructure works, details shall be submitted to the local planning authority for approval in writing, of an enhanced sound insulation value of at least 5dB above the maximum Building Regulations value, for the floor/ceiling/wall structures separating different types of rooms/uses in adjoining dwellings/areas, namely, any kitchen/living/dining/bathroom adjoining the bedroom of a separate dwelling. The assessment and mitigation measures shall be based on standards of the Council's SPG10. Approved details shall be implemented prior to occupation of the development and permanently retained thereafter.
- 16) Prior to commencement of the superstructure works, details shall be submitted to the local planning authority for approval in writing, of an enhanced sound insulation value of at least 10dB above the Building Regulations value for residential use, of the floor/ceiling/walls separating lifts and other communal facilities and areas (eg bin stores, bike stores, etc) from dwellings. Details shall include the installation method and materials of separating structures and, where necessary, additional mitigation measures and the resulting sound insulation value and internal sound level. The assessment and mitigation measures shall be based on standards of the Council's SPG10 and internal noise criteria of BS8233:2014. Approved details shall be implemented prior to occupation of the development and retained as such thereafter.
- 17) Prior to commencement of the superstructure works, details shall be submitted to the local planning authority for approval in writing, of the sound insulation value of the floor/ceiling/walls separating plant rooms and other non-residential parts of the development from dwellings. Details shall demonstrate that the sound insulation value is enhanced by at least 15dB above the Building Regulations value for residential use (as appropriate) and that, where necessary, additional mitigation measures are implemented to contain non-residential noise. The assessment and mitigation measures shall be based on standards of the Council's SPG10 and the criteria of BS8233:2014. Approved details shall be implemented prior to occupation of the development and retained as such thereafter.
- 18) The individual and combined external sound level emitted from plant, machinery or equipment at the development site shall be lower than the lowest existing background sound level by at least 10dBA, as measured

at/calculated to the nearest and/or most affected noise sensitive premises at the development site and at surrounding premises. The assessment shall be made in accordance with BS4142:2014, with all machinery operating together at maximum capacity. A post-installation sound assessment shall be carried out to confirm compliance with the noise criteria and any additional steps required to mitigate noise shall be taken, as necessary. Approved details shall be implemented prior to occupation and permanently retained thereafter.

- 19) Prior to use, machinery, plant or equipment/extraction/ventilation system and ducting at the development shall be mounted with proprietary anti-vibration isolators and fan motors shall be vibration isolated from the casing and adequately silenced and maintained as such.
- 20) Prior to commencement of the superstructure works details of the materials to be used for the external surfaces of the development shall be submitted to and approved in writing by the local planning authority. This condition shall apply notwithstanding any indications as to these matters which have been given in this application. Development shall be carried out only in accordance with the approved details and retained as such thereafter.
- 21) Notwithstanding the submitted Framework Delivery and Servicing Management Plan, a detailed Delivery and Servicing Management Plan shall be submitted to and approved in writing by the local planning authority prior to first occupation of any part of the development. The development shall be operated in accordance with the approved Delivery and Servicing Management Plan thereafter.
- 22) At least 249 long stay secure and sheltered cycle parking spaces shall be provided in full accordance with the standards and specifications of the London Cycle Design Standards (LCDS), including at least 13 larger bike spaces. All the cycle parking, and the dedicated LCDS compliant cycle lift, shall be available for use prior to first occupation of the residential development, and retained as such thereafter.
- 23) Notwithstanding the submitted Framework Travel Plan, a revised and detailed Travel Plan shall be submitted to and approved in writing by the local planning authority before first occupation of any part of the development. The Travel Plan shall include an increased modal split target for cycle trips and for public transport trips. The Travel Plan shall be prepared in accordance with the TfL Travel Plan Guidance and the Council's Sustainable Transport for New Development SPD in use at the time of its preparation. The development shall be carried out in accordance with the approved Travel Plan.
- 24) The approved refuse and recycling storage provision and collection arrangements shall be put in place prior to the first occupation of the relevant use to which the store(s) serves and retained thereafter.
- 25) Notwithstanding the submitted information full details of hard and soft landscaping, roof garden and boundary treatments shall be submitted to and approved in writing by the local planning authority prior to first occupation. These details shall address and include (but not be limited to): (i) hard and soft landscaping works at ground level within the red-lined application site boundaries - these details shall ensure that the design is coordinated with any approved development on the adjoining

Crossrail site and highways land and include planting and soft landscaping, hardscape, cycling parking, and any other equipment including planters and furniture - details of hardscape, boundary treatment and furniture palette to include not just material and height but also specifications, and colour schemes; (ii) the boundary treatment along the Network Rail boundary should include a trespass-proof fence; the details and location of this boundary treatment needs to be agreed with Network Rail prior to submission of the detail application to the local planning authority; (iii) details of play equipment and play areas on the roof garden, showing a range of play items and play experience offered for the relevant age ranges, and also safety surfacing and barriers; (iv) the roof garden shall have a non-climbable barrier of 2.4m and any climbing aids (eg trees and furniture) need to be secured away from this barrier to prevent the risk of objects falling onto the adjacent tracks and railway platform; (v) details of a planting palette and species; (vi) details of a Landscape Management Plan to cover a minimum period of 5 years from the implementation of final planting; (vii) a full planting schedule of tree sizes, species, number of trees and locations; (viii) Details of the green roof construction and specification, together with a maintenance schedule; and (ix) submitted details should be accompanied by plans, elevations, sections, a materials schedule/samples, and other relevant specifications. The approved details of the hard landscaping, boundary treatments and play spaces shall be implemented prior to first occupation and retained thereafter. The play spaces and play equipment shall be accessible to all residents of the development. The soft landscaping details shall be laid out and planted in accordance with a timetable first submitted to and approved in writing by the local planning authority. Any trees or plants which die within 5 years of planting, are removed, or become seriously damaged or diseased shall be replaced with others of the same size and species and in the same positions within the next planting season.

- 26) Prior to commencement of the superstructure works, details of mitigation measures to ensure that the wind microclimate conditions of the street level entrances and pedestrian routes, would have measured comfort levels appropriate to the intended use shall be submitted to and approved in writing by the local planning authority. The approved measures shall be implemented prior to first occupation of the residential element of the development and retained thereafter.
- 27) Prior to first occupation of the residential part of the development details shall be submitted of mitigation measures to ensure that the wind microclimate conditions of the roof garden would have measured comfort levels that are suitable for recreation and sitting out. The approved measures for the roof garden shall be implemented prior to first occupation of the residential element of the development and retained as such thereafter. The mitigation measures for the balconies and winter gardens detailed in the Environmental Wind Study Rev 2 prepared by SLR Consulting (dated April 2020) shall be implemented prior to first occupation of the residential element of the development and retained as such thereafter.
- 28) The development shall incorporate the overheating and cooling measures in line with the relevant CIBSE TM49 and/or TM52 guidance and detailed

in the Dynamic Overheating Assessment submitted by MLM Consulting Engineers in September 2020.

- 29) A. Prior to the commencement of superstructure works the applicant shall submit for the approval of the local planning authority a detailed roof plan and accompanying report detailing the deployment of the maximum amount of PV technically possible. If the incorporation of PV is not technically possible then the report should explain in detail why not. B. Prior to first occupation the development shall implement and maintain, and in the case of energy generation equipment confirm as operational, the approved measures to achieve an overall reduction in regulated CO₂ emissions of at least 35% over Building Regulations Part L 2013. These CO₂ savings shall be achieved through the Lean, Clean, Green Energy Hierarchy as detailed in the approved Energy Statement prepared by MLM Consulting Engineers September 2020 including: (i) passive design measures to achieve an annual reduction of at least 10% in regulated carbon dioxide (CO₂) emissions over BR Part L 2013 for the residential development, and at least 15%, over Part L 2013 for the non-residential space; (ii) renewable energy equipment comprising Air Source Heat Pump(s) to achieve an annual reduction of at least 20% in regulated carbon dioxide (CO₂) emissions over Part L 2013; and (iii) heat and electric meters installed to monitor the carbon efficiency (COP) of the heat pump(s) including the heat generation and the combined parasitic loads of the heat pumps. C. Prior to commencement of construction details of the specifications, design and layout of the proposed heat pump system(s) and associated monitoring devices required to identify their efficiency (COP) shall be submitted to and approved in writing by the local planning authority. D. Prior to construction completion details of the installed renewable/low-carbon energy equipment shall be submitted to the local planning authority for approval. The details shall include the exact Heat Pump thermal kilowatt output, heat output pipe diameter(s), parasitic load supply schematics, monthly energy demand profile, and/or the exact kW capacity of PV arrays. The name and contact details of the heat pump and/or PV installation contractor(s), and if different, the commissioning electrical contractor, should be submitted to the Council along with copies of all relevant commissioning documentation. The development shall be implemented only in accordance with the approved details. E. All boilers to serve the energy requirements of the development detailed in the approved energy strategy should be specified with NO_x emissions (g/m²) that are compliant with or better than the ultra-low NO_x (g/m²) benchmarks as set out at Appendix 5 of the Mayor's Sustainable Design and Construction SPG. F. Within three months of the occupation/first use of the development the relevant Energy Performance Certificate (EPC) and detailed SAP Worksheets showing clearly the TER and DER, and/or the Display Energy Certificates (DEC's), accompanying Advisory Reports and detailed BRUKL modelling output reports showing clearly the TER and BER from the 'as built stage' following completion of the development, shall be submitted to, and approved by, the local planning authority in order to confirm compliance with the energy efficiency measures detailed in the approved Energy Strategy. The development shall be carried out strictly in accordance with the approved details.

- 30) In order to allow for post-construction energy monitoring, the developer shall upon final construction of the development, or relevant phases of the development, and prior to occupation, submit to the Council proof of a contractual arrangement with a certified contractor that provides for the ongoing, commissioning, maintenance, and repair of the renewable/low-carbon energy equipment for a period of three years from the point that the building is occupied and the equipment fully operational.
- 31) Prior to completion the sustainability measures detailed in the approved Sustainability Statement prepared by MLM Consulting Engineers (dated May 2020) shall be implemented and thereafter retained. The measures shall meet the requirements of local and regional planning policies and be in line with the Mayor's Sustainable Design and Construction SPG. The development shall be constructed in line with the approved energy and sustainability measures.
- 32) Before the development commences, a Whole Life Cycle (WLC) Carbon Assessment that demonstrates compliance with the GLA Guidance on how to calculate and reduce whole life-cycle carbon emissions to fully capture the development's carbon impact shall be submitted to and approved in writing by the local planning authority. Development shall be carried out and operated in accordance with the approved details.
- 33) Prior to commencement of the superstructure works details demonstrating how the plantroom layout in the basement would facilitate future connection to an offsite District Heat Network (DHN) shall be submitted to and approved in writing by the local planning authority. The approved and safeguarded floor area and connection point shall be made available for future connection to an off-site network at least three months before the DHN becomes operational.
- 34) The passenger and cycle lifts shall be installed and operational prior to the first residential occupation of the development and retained as such thereafter.
- 35) One hundred and twenty-nine (129) of the approved residential dwellings shall be designed and constructed to meet Approved Document M (Volume 1: Dwellings), Part M4(2) (Accessible and Adaptable Dwellings) of Building Regulations 2015, or other such relevant technical requirements in use at the time of the construction of the development.
- 36) Fifteen (15) of the approved residential dwellings shall be designed and constructed to meet Approved Document M (Volume 1: Dwellings), Part M4(3) (Wheelchair User Dwellings) of Building Regulations 2015, or other such relevant technical standards in use at the time of the construction of the development.
- 37) External artificial lighting at the development shall not exceed lux levels of vertical illumination at neighbouring premises that are recommended by the Institution of Lighting Professionals in the 'Guidance Notes for The Reduction of Light Pollution 2011'. Lighting should be minimised, and glare and sky glow should be prevented by correctly using, locating, aiming, and shielding luminaires, in accordance with the Guidance Notes.

- 38) The hours of business use for the ground floor flexible-use commercial units (A1 or A2 or A3 or D1 or D2 Use Classes) hereby approved shall be restricted to the period 0730 – 2200 hours each day.
- 39) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 2015 (as amended) (or any subsequent order revoking and re-enacting that Order with or without modifications), the ground floor commercial units shall not be subdivided and shall only be used for A1 or A2 or A3 or D1 or D2 Use Class activities and not for any other use.
- 40) No properties shall be occupied until confirmation has been provided to the local planning authority that either: (i) all water network upgrades required to accommodate the additional flows to serve the development have been completed; or (ii) a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied. Where a housing and infrastructure phasing plan is agreed no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.
- 41) No development shall take place (including demolition) until details of the new boundary treatment between the site and the property of Network Rail adjacent have been submitted to and approved in writing by the local planning authority. Development shall be carried out in accordance with the approved details.
- 42) All balconies on the eastern tip of the building shall have glazed screening that is fixed in place to prevent opportunities for objects to fall on to or towards the railway. All windows and winter gardens that open on the southern façade of the building shall be fixed with bottom-hung inward opening windows as shown on the approved plans.
- 43) The development must achieve Secured by Design accreditation prior to first occupation.
- 44) External materials including glazing shall be fully compliant with the principles in the submitted report entitled 'Reflected Solar Glare' (12 August 2020) and be retained as such thereafter.