



Appeal Decision

Inquiry held on 5-8 and 13 September 2023

Site visit made on 8 September 2023

by Guy Davies BSc (Hons) DipTP MRTPI

an Inspector appointed by the Secretary of State

Decision date: 9 October 2023

Appeal Ref: APP/E5900/W/23/3320405

Lemon Tree House, 51-53 Bow Road, London E3 2AD

- 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 Clarion Housing Group against the decision of the Council of the London Borough of Tower Hamlets.
 - The application Ref PA/22/01228, dated 24 June 2022, was refused by notice dated 18 October 2022.
 - The development proposed is demolition of the existing building and erection of a part one, part seven, part nine storey building comprising residential accommodation with associated amenity space, landscaping, accessible parking and servicing access.
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Decision

1. The appeal is allowed and planning permission is granted for the demolition of the existing building and erection of a part one, part seven, part nine storey building comprising residential accommodation with associated amenity space, landscaping, accessible parking and servicing access at Lemon Tree House, 51-53 Bow Road, London E3 2AD in accordance with the terms of the application Ref PA/22/01228, dated 24 June 2022, and subject to the conditions in the attached schedule.

Preliminary Matters

2. Amended plans were submitted during the appeal which enlarged the private garden areas to the units on the ground floor and widened the doorway to the smaller cycle store¹. The Council has had regard to these amendments in its statement of case. I am satisfied that those with an interest in the appeal would not be prejudiced by these amended plans and I have taken them into account in my decision.
3. The appellant has submitted a legal undertaking which secures a range of obligations relating to the provision of affordable housing and responding to demands on infrastructure and service provision that would arise from the development. I consider these obligations in more detail later in my decision. The Council is satisfied that a combination of these obligations and conditions overcomes the concerns expressed around the impact of the development on public facilities and services in the seventh reason for refusal on its decision notice. Consequently, that reason for refusal no longer needs to be considered as a main issue in the appeal.

¹ LTH-PRP-ZZ-00-DR-A-2012 Rev P3 – Proposed Ground Floor Plan and LTH-PRP-ZZ-00-DR-A-2200 Rev P2 – Landscape – Public Realm.

4. As a result of the amended plans, further information and discussion on conditional controls the main parties have been able to narrow some of the remaining areas of disagreement. The matters that are no longer in dispute relate to air quality, the standard of private and communal amenity space (other than light to balconies on the northern podium level), child play space provision, the design of the wheelchair accessible units and loss of daylight and sunlight to Phoenix School (as distinct from visual dominance). I have had regard to the resolution of these matters in framing the main issues.
5. A revised version of the National Planning Policy Framework (the Framework) was published during the inquiry on 5 September 2023. The revisions relate to national policy for onshore wind development. Both main parties were given the opportunity to comment and agreed that the revisions do not materially affect either of their cases.

Main Issues

6. The main issues are considered to be the effect of the proposed development on:
 - The character and appearance of the area including Tredegar Square Conservation Area, and the settings of Phoenix School and Electric House
 - The living conditions of future occupants with regard to sunlight and daylight, including to external balconies and podium space, and accessibility to refuse and cycle stores
 - The effect on Phoenix School with regard to visual dominance
 - The mix of affordable housing.
7. It is also necessary to consider the benefits of the scheme, in particular the provision of affordable housing, and the weight to be given to these and all other material considerations. I do this as part of the planning balance.

Reasons

Character and appearance

8. Lemon Tree House fronts Bow Road, a principal distributor which links the city with parts of the east end of London and routes beyond. It is a broad, four-lane highway with separate cycle lanes and wide pavements providing an open frontage to the site and views to the east and west. There is considerable variation in the sizes, uses and designs of buildings fronting Bow Road. Off the main thoroughfare the area is largely residential with a mixture of traditional terraced housing and taller post-war housing estates. Both typologies are interlaced, the newer infill having replaced areas of former terraced housing after bomb damage during WWII or slum clearance².
9. The site lies within the Tredegar Square Conservation Area. The significance and special interest of the conservation area lies in its regular grid layout of streets and squares, and its elegant late Georgian/early Victorian terraces and villas in London stock brick or white stucco. While there are differences between the designs of different terraces and villas, they exhibit a regularity in

² London Borough of Tower Hamlets Central Area Good Growth Supplementary Planning Document 2021.

form and repetition of architectural detailing that presents a coherent whole to each street frontage³.

10. That coherence does not however extend to the whole of the conservation area. Terraces fronting the northern side of Bow Road to the east of Alfred Street and to the west of Coburn Street display the late Georgian/early Victorian form and style characteristic of the conservation area, but in between the buildings fronting Bow Road are mainly in institutional or mixed use, larger and taller, more modern in age and diverse in design. Together these buildings form an extended frontage to Bow Road that has little in common with the defining characteristics of the conservation area.
11. The neighbouring building that perhaps gets closest to reflecting the defining characteristics of the conservation area is Electric House immediately to the east of the appeal site. There was some discussion at the inquiry on whether it should be considered as a non-designated heritage asset. The building does have neo-Georgian elements in the proportions, detailing and regularity of its fenestration as well as a well-defined cornice. On the other hand, it is of a greater height and scale than the traditional terraces, is of predominantly red-brown brick and the ground floor is in commercial use, none of which are characteristics that reflect the significance or special interest of the conservation area. It is not listed, nor on the local list of buildings of architectural or historic interest. In my view it is not of sufficient individual merit to warrant being considered as a separate heritage asset. It does however contribute to the conservation area and wider townscape.
12. There would be an axial view from the west where the proposed building would be seen in conjunction with the Georgian terrace fronting Bow Road to the east of Alfred Street. Some public views of the rear of the existing building would also be gained from Harley Grove between existing buildings, and a longer distance view from the recreational area off Benworth Street. In each case the proposed building would be separated from the more traditional terraces or villas by other buildings in the block in which the site is located. So far as these limited views are concerned, the differences in scale and design between the proposed building and those buildings characteristic of the conservation area would be apparent. Such differences would to some extent harm the significance of the conservation area, although given the separation and screening involved that harm would be less than substantial, and in my view towards the lower end of that scale.
13. Looking at the townscape more widely, the southern side of Bow Road is equally eclectic as the northern side. It includes short traditional terraces as well as more modern additions, including a monolithic magistrates' court to the east and dark panelled Kira building to the west. The appellant sought to argue that the street scene extended further than those buildings to include the cluster of tall buildings around the junction of Bow High Street and the A12, and westwards beyond Mile End Station. While the continuation of Bow Road does lead to those locations, in my view they represent distinctly different character areas. I consider the townscape in which the appeal site is experienced is largely defined by those buildings which I have described above.

³ London Borough of Tower Hamlets, Tredegar Square Conservation Area Character Appraisal and Management Guidelines 2016.

14. Policy D3 of the London Plan requires all development to make best use of land by following a design-led approach, with higher density developments generally promoted in well-connected locations. Policy S.SG1 of the Local Plan directs new development within the borough towards, amongst other areas, highly accessible locations which have good links to public transport, walking and cycling networks and local services. With a PTAL⁴ rating of 6, the site is in a highly accessible location and is one which, subject to other policy constraints, should make a contribution towards meeting the development needs of the borough. Optimising the development capacity of the site is therefore a policy objective of both strategic and local plan policies, and assessment of the design of the scheme needs to be viewed in light of that objective.
15. Within the setting described above, the proposed building would be perceived as a large building alongside other large buildings. The Phoenix School entrance immediately to its west rises to the equivalence of 7 storeys. The Central Foundation Girls' School buildings, in particular the modern red brick extension, provide large scale buildings in the street scene against which the appeal building would be seen. Electric House to the east, while only 5 storeys high is still a substantial building in its own right and would continue to define its corner location without being visually overwhelmed. Repetition of architectural details, such as chimneys, is not a feature of the institutional/mixed use buildings along this section of Bow Road and therefore the loss of the silhouetted view of the end chimney stack to Electric House would not be harmful.
16. The building would rise to 9 storeys at the rear, which would be seen in oblique views over the top of Electric House, but because of the setback I do not consider that this additional building bulk would be harmful to the street scene. It would be the tallest building in this stretch of Bow Road, and noticeably taller than the existing building. However, that increase in height is not necessarily harmful when viewed in context with the prevailing townscape and policy objectives for optimising development.
17. Looking at the comparable buildings in the vicinity of the site along Bow Road, there is a wide variation of styles and materials. The entrance building to Phoenix School consists of geometric forms in an asymmetric layout. The Central Foundation Girls' School Sixth Form occupies a converted warehouse in red brick and terracotta tiles. It has an entrance extension in glass with a strongly horizontal canopy at the front. Further along Bow Road is the Central Foundation Girls' School main building. Although half of this is a fine listed building, its ornate style in red brick with stone dressings contrasts with those characteristics that define the significance of the conservation area. The other half of its frontage to Bow Street is an uncompromisingly modern block in red brick with horizontal detailing and fenestration.
18. Compared to this wide variety of building styles and materials, I do not consider that the design or appearance of the proposed building would appear out of place. It would present a strong grid-like façade to Bow Road with a horizontal emphasis, but there are other horizontal elements in the neighbouring buildings as described above. The use of red brick for the main elevations is consistent with adjacent buildings. The use of a paler stock brick for the lower two floors and brick detailing to the parapet would provide a

⁴ Public Transport Access Level – a measure of connectivity by public transport (Transport for London).

distinction between the bottom, middle and top of the building. The contrast between the parapet and the main elevation appears somewhat weak, but I do not consider that alone makes the proposal a poor design.

19. To the rear of the site is the grade II* listed Phoenix School⁵. Its significance and special interest lie in the unusual architectural design of its pavilions linked by a covered walkway and its historic importance as an example of an open-air school. Other than for its modern entrance building, the school is entirely surrounded by other buildings meaning that appreciation of the listed structures are mostly limited to views from within its own grounds.
20. The Council agrees that the proposed development would preserve the significance and special interest of Phoenix School⁶, although at the inquiry its heritage witness expressed the view that some harm may be caused. Notwithstanding the increase in building bulk adjacent to the boundary of the school, the proposed building would not obscure any existing views of the listed structures from outside nor would it diminish how the structures would be appreciated from within the school grounds. My view is therefore that the proposed development would not have any material impact on the setting of the listed building in so far as appreciation of its significance and special interest is concerned.
21. Sections 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires me to pay special regard to the desirability of preserving listed buildings or their settings or any features of special architectural or historic interest they possess. For the reasons given above I consider that the development would not harm the setting of Phoenix School, and therefore its significance and special interest would be preserved. I also consider that Electric House does not amount to a non-designated heritage asset, and therefore does not fall to be considered under paragraph 203 of the Framework, although I have taken it into account as an element in the street scene.
22. Section 72(1) of the same Act requires special attention to be paid to preserving or enhancing the character or appearance of conservation areas. So far as the character and appearance of the Tredegar Square Conservation Area is concerned, I acknowledge that the scale and design of the proposed building departs from the characteristics that define the significance and special interest of the conservation area. However, the appeal site lies within an extended frontage to Bow Road that has little in common with those defining characteristics. Only limited views would be gained where both the appeal building and traditional terraces or villas would be seen together and these would be oblique or seen in conjunction with intervening buildings. Only limited harm would therefore be caused to the significance and special interest of the conservation area. That harm would be less than substantial.
23. For the same reason I consider the development would conflict with Policy S.DH3 of the London Borough of Tower Hamlets Local Plan 2031 (the Local Plan), which seeks to preserve or, where appropriate, enhance the borough's heritage assets in a manner appropriate to their significance, but only to a limited extent.

⁵ List entry number: 1065730

⁶ Statement of Common/Uncommon Ground, 1 September 2023.

24. In wider townscape terms, I conclude that the proposed development would not harm the character or appearance of the area. There is a variety of building sizes and styles mixing old and new, large and small, along Bow Road. The proposed building, notwithstanding its increase in height and bulk, would not appear out of place in this diverse street scene. Consequently, it would comply with Policies S.DH1 and D.DH2 of the Local Plan, which seek to deliver high quality design that achieves attractive streets, spaces and public realm.

Living conditions - daylight and sunlight

25. Both parties have addressed the appeal proposal using the same methodology⁷, although interpreted in different ways. A report⁸ based on that methodology was submitted with the application assessing the effect of the development on daylight and sunlight reaching neighbouring properties and future residential accommodation. That report was partly flawed because panels above windows in the proposed building were assumed to be glazed when they were not. Consequently, a revised assessment has been submitted with the appeal. That assessment corrects the area of glazing but increases the reflectance values. Following criticism from the Council, further amendments have been made to the assessment revising frame correction and maintenance factors, although the reflectance values remain unchanged⁹.
26. Differences in the reflectance values between the two reports suggests to me a degree of manipulation of the data to favour the appellant's case. However, the revised reflectance values still fall within the ranges considered acceptable in the guidance, albeit at their upper end predicated on light coloured finishes to walls, floors and ceilings. The reflectance value for the external walls of the proposed building is overstated, but that would only affect light to windows in the proposed building looking out on to the podium level, and then would only be one factor amongst others. Notwithstanding criticism of the assessment, the Council has not provided any alternative calculations itself. I have therefore taken the revised assessment as the most relevant evidence on daylight and sunlight in front of me, recognising that it is likely to represent a 'best case' scenario.
27. There are also differences between the parties as to the correct reference date for sunlight calculations. While the BRE Report suggests 21 March be used, the British Standard allows selection of a date between 1 February and 21 March¹⁰. I have therefore taken into account the sunlight data for both dates, recognising that the earlier date leads to generally higher sunlight exposure results for this scheme.
28. The lighting assessment uses target recommendations derived from the UK National Annex, rather than the main British Standard. The Annex recognises that the recommendations for daylight provision may not be achievable for some buildings, particularly dwellings. Examples where that might apply are dwellings with basement rooms or those with significant external obstructions (for example dwellings situated in a dense urban area or with tall trees

⁷ British Research Establishment Report 209 2022 'Site layout planning for daylight and sunlight: A guide to good practice', which provides guidance on the application of British Standard EN17037:2018 'Daylight in buildings', including National Annex NA – 'Further recommendations and data for daylight provision in the UK and Channel Islands'.

⁸ CalfordSeaden: Daylight and Sunlight Report, updated July 2022.

⁹ Toby Rogan-Jones Proof of Evidence, Appendix 13 – SDA analysis with revised frame correction factor and revised maintenance factors.

¹⁰ BRE Report 209 2022: Site layout planning for daylight and sunlight – A guide to good practice, section 3.1.10.

outside). Given the existing urban environment, and the substantial buildings immediately to the east and west, I consider the use of the UK National Annex targets to be appropriate in this case.

29. Paragraph 125 of the Framework says that a flexible approach should be taken in applying policies or guidance relating to daylight and sunlight, where they would otherwise inhibit making efficient use of a site (as long as the resulting scheme would provide acceptable living standards). Policy D6 of the London Plan 2021 (the London Plan) requires that the design of development should provide sufficient daylight and sunlight to new and surrounding housing that is appropriate for its context. Policy D.DH8 of the Local Plan seeks to ensure adequate levels of daylight and sunlight for new residential developments, including amenity spaces within the development. The BRE Report itself recognises that its advice is not mandatory, its aim being to help rather than constrain the designer. Although it gives numerical guidelines, it advises that these should be interpreted flexibly since natural lighting is only one of many factors in site design layout. I have considered the results of the lighting assessment in the context of this advice.
30. It is accepted by the Council that the effect of the development on daylight and sunlight to neighbouring properties would be negligible or have a minor adverse effect. This includes daylight and sunlight to Phoenix School, both in terms of its buildings and also its external spaces. In all cases, the overshadowing effects would not be such as to be harmful to the living conditions of neighbouring occupants or materially harm the operation of the school.
31. Following additional information and amendment, the Council no longer objects to daylight and sunlight to the scheme's private front garden areas or the rooftop communal and children's play space area. Objection is maintained to sunlight to the podium area and balconies overlooking it. So far as the podium is concerned, this is not intended to be open to occupants for use as a communal space, and therefore I do not consider the amount of sunlight to it to be important. The appellant has not tested sunlight to balconies because it is not required by the BRE Report and there is no standard assessment method. I nevertheless acknowledge the Council's criticism that some of the lower balconies overlooking the podium level would receive little if any direct sunlight.
32. In terms of the living conditions of future occupants of the proposed building, the revised lighting assessment indicates that between 86-87% of rooms would meet the UK National Annex targets for daylight provision¹¹.
33. The Council stresses the benefits of good levels of daylight and sunlight on health and wellbeing, and that the recommendations in the UK National Annex are intended as minimum targets, interpreting that as meaning that compliance rates should approach 100%. While I fully accept the benefits of natural lighting in new dwellings, it seems to me that in any scenario, particularly one in an urban environment such as the appeal site, it is necessary to apply the guidance flexibly, as required by policy. That applies equally to the UK National Annex recommended targets as it does to the main British Standard. It is also apparent from the evidence presented that relatively small changes in baseline

¹¹ Overall spatial daylight autonomy compliance rate. The small difference between the parties is likely to be a rounding error.

assumptions give rise to significant differences in results. I have therefore approached the assessment with a degree of caution.

34. One aspect that plays a significant role in limiting natural light is the presence of the external balconies. Because these are placed above and below main habitable room openings, they restrict both daylight and sunlight by obscuring a significant part of the sky view. However, they benefit future occupiers by providing private outdoor amenity space and access to fresh air. In my view, those benefits outweigh the restrictions on light within the units and represent one of the choices that the guidance recognises needs to be taken into account in site design layout.
35. One other aspect of site design layout is the apparently disproportionate number of units intended for disabled occupants that have restricted natural light. Those units where light is restricted tend to occupy the lower floors of the proposed building. The position of the disabled units on the lower floors has been chosen to optimise accessibility for their occupants. While a larger proportion of the disabled units therefore have restrictions on light than non-disabled units, in my view it is more important that they can be accessed easily. This aspect therefore takes precedence and represents a rational site design layout choice.
36. I recognise that where daylight is restricted that is in part a consequence of design, with a proportion of the units being mono aspect and in some cases having deep room layouts. However, where living/kitchen/dining rooms do not meet the recommended daylight targets, they would all form part of a combined space where lighting would be good at the front of the room even if it is more limited towards the rear. Occupiers would therefore have a degree of choice in how they used the space, being able to use the front part of the living/kitchen/diner for activities that benefitted from good natural light. Where daylight to bedrooms is below the recommended targets, occupants would have the opportunity of using well-lit living/kitchen/diner rooms.
37. The orientation of the site fronting Bow Road and flanked by substantial buildings necessarily places restrictions on sunlight to the building, in particular its northern and western elevations. Although it would be desirable for rooms and private outdoor spaces to receive sunlight during at least part of the day, in particular main living spaces, I accept that is not achievable within the constraints of the site. The restrictions on sunlight, even where below the recommended target, do not in my view make living conditions unacceptable.
38. My attention has been drawn to an appeal decision in which daylight effects was an issue¹². This differs from the current scheme in that it was concerned with overshadowing effects on existing rather than proposed residential development and used a previous methodology to assess loss of daylight. Consequently, I find it of little relevance to this appeal.
39. Having regard to these factors, and the need to apply lighting guidance flexibly, I am satisfied that the dwellings in the proposed building would achieve adequate levels of daylight and sunlight for their occupants within the urban context in which the building would stand. Where lighting falls below recommended targets in the guidance, there are mitigating factors or site layout considerations that take precedence, for the reasons I have set out

¹² APP/L4240/W/22/3296317 103a-111a High Street, Croydon.

above. The proposal would therefore comply with Policy D6 of the London Plan and Policy D.DH8 of the Local Plan.

Living conditions - accessibility to refuse and cycle stores

40. The route from the service core (lifts and stairs) to the communal refuse and cycle stores would require occupants to pass through a number of doors, and to exit and re-enter the building. The appellant states that this arrangement is necessary to meet fire safety objectives by separating access to refuse storage chambers from escape routes or final exits¹³. The carry distance between individual flats and the refuse store would remain less than 30m¹⁴.
41. Achieving an accessible and inclusive route to and from the communal facilities is a laudable aim and is a requirement of strategic and local plan policies. However, it is equally necessary to ensure that other objectives, such as fire safety, are also achieved. Given the problems experienced by the appellant with the existing building, it is entirely understandable why it would want that issue to be fully addressed.
42. While maintaining its criticism of the convoluted nature of the route, the Council was unable to point to any objective measure which the access route failed, nor was it able to confirm whether a less convoluted route, avoiding exiting and re-entering the building, would meet the relevant Building Regulations.
43. On that basis, I place greater weight on the evidence presented by the appellant. Consequently, I consider that the route to the communal refuse and cycles stores is reasonable given the need to achieve a separation for fire safety purposes. That applies to all future occupants of the building, including those in the wheelchair accessible units. It would therefore comply with the design objectives in Policies D3, D5, D7 and T5 of the London Plan, and Policies D.H3 and D.MW3 of the Local Plan, which seeks to achieve accessible and inclusive design that is convenient and welcoming with no disabling barriers.

Phoenix School

44. The proposed development would replace the existing building that steps away from the boundary with Phoenix School with a much taller building. Given the protected characteristics of its pupils, who have autism and developmental disabilities, I have taken particular care to assess this aspect of the scheme, including when I visited the school.
45. Although the 9-storey element would indeed present a very much greater building bulk close to the boundary between the site and the school, awareness of it would be lessened by the enclosed nature of the school's courtyards. These provide self-contained inward-focused spaces in which views are restricted by the surrounding pavilions and where the eye is drawn to the space rather than to buildings beyond. The appellant's daylight and sunlight assessment indicates that the proposed building would not overshadow the school's courtyards to any significant extent, and therefore its presence would not be drawn to the attention of users of the courtyards because of it interrupting daylight to the outdoor spaces.

¹³ The Building Regulations 2010, Approved Document B: Fire safety

¹⁴ The Building Regulations 2010, Approved Document H: Drainage and waste disposal

46. I observed the rear of the Phoenix School entrance building, which is the equivalent of 7 storeys in height, from the entrance courtyard. Even though it presents an imposing elevation to that courtyard, it does not have an overbearing effect on it, nor does it feel oppressive. Pupils at the school quite happily entered and left the courtyard while I was there without being disturbed by its presence. The 9-storey element of the proposed building would be taller than the entrance building but set obliquely to the entrance courtyard. Other than perhaps during its construction, which would need to be handled sensitively, I see no reason why it would cause distress to pupils at the school.
47. The Council has suggested that the presence of windows in the northern elevation of the 9-storey element and balconies on its eastern and western elevations would give rise to a perception of overlooking. I give that concern limited weight. The windows in question would be obscure glazed and there would be privacy panels on the ends of the flanking balconies. These measures would prevent any actual overlooking. While windows would be present in the north elevation, views of that elevation would be limited from the internal courtyards of the school for the reason given above. I do not therefore consider that a perception of overlooking would be particularly prevalent.
48. My attention has been drawn to 2 appeal decisions relating to another site, where the perception of overlooking was a contributing factor in the assessment of living conditions¹⁵. Other than confirming that the perception of overlooking may be a factor to be considered, those decisions are of limited help in this case given that they refer to an entirely different site and form of development.
49. I conclude that the proposed development would not have a harmful effect on Phoenix School by reason of being overly dominant or overbearing. It would therefore comply with Policy D3 of the London Plan and Policies S.DH1, S.DH3 and D.DH8 of the Local Plan, which amongst other things seek to protect the amenities of neighbouring occupants.

Affordable housing mix

50. Policy H10 of the London Plan and Policies S.H1 and D.H2 of the Local Plan set out the requirement for housing mix, both in general terms and more specifically in relation to affordable housing. Under Policy D.H2 development is required to provide a mix of unit sizes (including larger family homes) in accordance with local housing need. For affordable rented units, this includes 30% of units being 3-bed and 15% 4-bed. The proposed development would provide only some 10% of units as 3-bed and none as 4-bed. There would therefore be a conflict with the policy.
51. At the inquiry there was some debate about whether Policies H10 and D.H2 were complementary or conflicted with one another. Policy H10 sets a strategic direction for housing mix across London, while Policy D.H2 applies that approach to the local (borough) context, based on locally specific data. Although adoption of the Local Plan predates the London Plan, they were being developed at the same time, and in my view are certainly intended to be complementary. I have interpreted the policies accordingly.

¹⁵ APP/G5180/A/13/2210406 and APP/G5180/W/16/3146806, 25-27 Elmfield Road, Bromley

52. The mix of affordable housing required by Policy D.H2 is predicated on the Tower Hamlets Strategic Housing Market Assessment (SHMA). The appellant points to the household growth projections and the subsequent London SHMA as evidence of a different housing mix demand. However, as this SHMA is London wide rather than specific to Tower Hamlets, I place less weight on it than the Tower Hamlets SHMA. The appellant has also sought to argue that 2-bed units amount to family accommodation, because they can accommodate families with one child or two children of the same sex. While that may be so, for the purposes of Policy D.H2 family dwellings are defined as houses and flats which contain 3 or more bedrooms¹⁶. It is these larger units that in particular are in greatest demand to meet affordable housing needs in Tower Hamlets. I have therefore taken family units to be those with 3 or more bedrooms.
53. The existing building is standing vacant. Following the Grenfell Tower fire disaster, the appellant's agent inspected the building and found a wide range of fire safety defects. As a consequence, the decision was taken to decant all existing tenants to new accommodation in the interests of their safety. The Council questions whether as an alternative to redevelopment, the existing building could be refurbished. Given the inherent fire safety defects, I accept that the existing building is uninhabitable, and that refurbishment is not a realistic option.
54. The uninhabitable nature of the existing building has implications for the 'as is' or baseline condition when considering affordable housing mix on the site. While for housing supply calculations, the development would represent a net gain of 9 affordable housing units with a net loss of 2 family sized units, in reality the units in the existing building are not available for occupation, nor are they ever going to be in the future. For all practical purposes, they have already been lost as part of the housing supply. For that reason, I do not view the development as resulting in the net loss of family sized units, since that loss has already happened, irrespective of what is eventually put back on the site.
55. That approach does raise the question of whether redevelopment of the site for purposes other than affordable housing would fail London or Local Plan policies. I tend to agree with the appellant that a non or partly affordable scheme would conflict with Policy D.H2¹⁷, although that is a hypothetical point given that the scheme in front of me for determination is for all affordable housing. For that reason, I have not sought to pursue it any further.
56. In response to a question at the inquiry, the Council acknowledged that the mix of affordable unit sizes set out in Policy D.H2 was a 'starting point', and that some variation may be justified on the specific facts of a case. My attention was also drawn to Policy H10 of the London Plan, which takes a somewhat more flexible approach than Policy D.H2, having regard to criteria such as 1- and 2- bed units generally being more appropriate in locations which have higher public transport access and connectivity, the aim of optimising housing potential on site, and the role of 1- and 2-bed units in freeing up existing family housing. Set against that is the explanation in supporting text to Policy D.H2, whereby even in circumstances where a significantly higher quantum of

¹⁶ London Borough of Tower Hamlets Local Plan 2031, Appendix 1: Glossary and acronyms.

¹⁷ Martin Taylor, Proof of Evidence.

affordable housing is provided, schemes will still be expected to meet unit mix requirements to deliver family housing in the affordable housing tenures¹⁸.

57. In terms of affordable housing the scheme would provide 100% of units as affordable, and moreover all of those units would be for social rent. I return to these benefits in the planning balance. Nevertheless, having taken all of the above factors into consideration, I conclude that the proportional lack of larger family units in the proposed scheme represents a conflict with Policies S.H1 and D.H2 of the Local Plan, in that it fails to provide a mix and balance of unit sizes necessary to meet the identified needs of the local population.

Other Matters

Planning obligations

58. The submitted legal undertaking secures financial contributions towards carbon offset, development co-ordination, construction training, off-site play space provision, monitoring of the obligations, and payment in lieu of the provision of wheelchair accessible units. It also secures the provision of all units as affordable social rent housing, a proportion of which are wheelchair accessible, a travel plan, information on car parking permit restrictions, reinstatement of the crossovers to the pavement, an electric charging point and the ability for future installation for the disabled parking spaces, construction employment, use of local goods and services during construction, a code of construction, energy monitoring and on-site child play space provision.
59. With the exception of four of these obligations, I am satisfied that they are necessary, related to the development in addressing direct or indirect effects on the locality or in meeting policy requirements as set out in the Council's compliance statement, and fairly and reasonably related in scale and kind.
60. I acknowledge the benefits of the three obligations relating to electric car charging, code for construction, and on-site child play space provision but consider that these requirements could be secured through conditions. That would be a preferable form of control consistent with paragraph 55 of the Framework which says that planning obligations should only be used where it is not possible to address unacceptable impacts through a planning condition.
61. The fourth obligation I question is that relating to a financial contribution in lieu of wheelchair accessible housing. The scheme has been designed to meet the policy requirement for providing such accessible units and it is important that it should do so to meet the needs of disabled occupants. The only reason why such units may not be needed is if there were insufficient demand for them from disabled occupants, in which case there would be no need for a financial payment in lieu. I consider this obligation to be unnecessary.
62. Because the four obligations identified above are unnecessary, either because they do not fulfil a planning purpose or their purposes can be achieved using planning conditions, they fail one of the tests set out in Regulation 122 of the Community Infrastructure Regulations 2010 and repeated in paragraph 57 of the Framework. For the avoidance of doubt, I consider that clause 18.2 of the legal undertaking is applicable to these four obligations and consequently they should have no effect. The remaining obligations do however meet the tests and I have consequently taken them into account in reaching my decision.

¹⁸ London Borough of Tower Hamlets Local Plan 2031, paragraph 9.37.

Fire safety

63. In July 2023, the Government issued a statement on its long-term plan for housing. The statement confirms the intention to require second staircases in new residential buildings above 18m in height.
64. While the Government's statement is noted, it is at present only a statement of intent. The requirement has not yet been enacted in statute or by regulation and therefore is not a material consideration in this appeal. If a requirement for second staircases were to be introduced before development began on site, then that would be a matter for the developer to address at that time. In that regard, the statement does refer to the need to avoid delays to the supply of homes and suggests that transitional arrangements will be introduced, although no further detail is given.

Public sector equality duty

65. There is a duty under the Equality Act 2010 to have due regard to eliminating unlawful discrimination, advancing equality of opportunity and fostering good relations between people, including those with protected characteristics. In this appeal, that duty is relevant in two respects: the provision of wheelchair accessible units; and the effect of the development on Phoenix School.
66. In both cases, I have had regard to the protected characteristics of future occupants and neighbouring pupils respectively in assessing the scheme. The needs of wheelchair users have been taken into account in the design of a proportion of the units and when considering accessibility to the shared refuse and cycle stores. The needs of pupils at Phoenix School have been taken into account when assessing the impact of the proposed building on the school's operation, in respect of whether it would appear overbearing or overly dominant. Other matters relating to overshadowing and privacy have also been considered and resolved between the main parties. My conclusions on those aspects have been reached in the knowledge of the particular protected characteristics of each group, as well as the matters raised by both main parties on this issue¹⁹.

Planning Balance

67. I have found there to be less than substantial harm to the significance and special interest of the Tredegar Square Conservation Area. Notwithstanding that this harm is limited, it nevertheless attracts great weight by virtue of paragraph 199 of the Framework. Where a development would lead to less than substantial harm to a designated heritage asset, paragraph 202 of the Framework says that it should be weighed against the public benefits of the proposal.
68. The public benefits of the appeal scheme are considerable. The proposed development would provide 58 new affordable units, which is 100% of the dwellings in the scheme. This significantly exceeds strategic and local requirements for the proportion of affordable housing provided as part of a residential development, and gains support from Policies H4 and H5 of the London Plan and the first part of Policy D.H2 of the Local Plan. Furthermore, 100% of those affordable units would be for social rent. That also significantly

¹⁹ Conor Guilfoyle, Proof of Evidence, Issue 7 and Rebuttal, and Simon Slatford, Proof of Evidence, Appendix 5 – Equalities Impact Assessment, Stantec

exceeds the requirements of those policies and represents the tenure most needed by those who are unable to afford accommodation at market or intermediate rates.

69. Evidence was presented at the inquiry which demonstrates that there is a pressing need for affordable housing in the borough. The delivery of affordable homes, in particular for social rent, lags behind the need identified in the SHMA, and the number of people on the housing register has continued to grow. The Council is not alone in being unable to meet demand for affordable housing, and indeed does better than many local planning authorities in achieving its housing delivery targets. Nevertheless, the Local Plan recognises that Tower Hamlets faces an acute housing need²⁰. In that context, the provision of 100% affordable housing of which 100% would be for social rent are very substantial benefits. Those benefits outweigh the less than substantial harm caused to the conservation area.
70. The benefits of that affordable housing provision are tempered by the failure to provide a greater proportion of affordable family units. The 10% of units that would be 3-beds or more is well below the 45% needed to provide a mix and balance of unit sizes that reflects the demands on affordable housing in the borough. While there are some arguments that support a degree of flexibility to the mix set out in part 3 of Policy D.H2 of the Local Plan, they are not sufficient to justify the degree of variance found in the appeal scheme. I assign that harm moderate weight.
71. However, there are unusual circumstances in this case whereby the existing accommodation is unfit for human habitation and therefore has to be considered as already lost. Consequently, I view the quantum of affordable housing being provided as 58 units rather than just a net gain of 9 units. In that context, I consider that the benefit to be gained from the total amount of affordable housing provided by the development, which is significant, to outweigh the moderate harm caused by the unbalanced unit mix.
72. Some short-term economic benefit would arise during the construction period, and longer-term economic benefit would accrue from additional spend in the local economy. However, those types of benefit would arise from any redevelopment of the site, and I therefore give them only limited beneficial weight.
73. This is a case where there are competing policy objectives that pull in different directions. Although I have reservations about some aspects of the proposal relating to its impact on the conservation area and the mix of affordable housing units, those reservations are limited in extent. They have to be weighed against the very substantial benefits that would flow from the development in terms of providing not only all units as affordable housing, but all of the units being for social rent. The need for such accommodation in London, and even more so in Tower Hamlets, is acute. I conclude that the substantial benefits outweigh the limited harm I have identified. The development would therefore accord with the development plan when taken as a whole.

²⁰ London Borough of Tower Hamlets Local Plan 2031, paragraph 9.28

Conditions

74. I have considered the conditions discussed during the inquiry against the tests in paragraph 56 of the Framework. I have included those which I consider meet the tests, subject to minor rewording in the interests of clarity, consistency and enforceability. During the round table session to discuss potential conditions, the appellant confirmed agreement to the use of those conditions which require pre-commencement actions in accordance with section 100ZA of the Town and Country Planning Act 1990.
75. At my request, amended conditions were suggested to cover matters relating to electric car charging, code for construction and on-site child play space provision, rather than them being included in legal obligations. I have incorporated these amendments in the relevant conditions below.
76. In addition to the standard time limit, a condition listing the approved plans is necessary in the interests of certainty.
77. Conditions relating to the control of activities during demolition and construction, including the use of piling and associated plant and machinery, are necessary in the interests of neighbouring occupants in helping to reduce noise, dust, vibration, emissions and potential obstruction to the highway. Particular care will need to be taken during construction to minimise disturbance to Phoenix School, not just in terms of normal educational activities but also because its pupils may have difficulty in reacting to change.
78. Conditions relating to the installation of mechanical equipment as part of the building are necessary in the interests of the living conditions of future occupants in helping to reduce noise and disturbance.
79. A condition controlling subsequent alterations or additions to the building, such as plant or air conditioning units, is necessary in the interests of the character and appearance of the area.
80. Conditions requiring a fire strategy and a security strategy are necessary in the interest of the safety and security of future occupants.
81. Conditions requiring protection of nearby trees, approval of external materials and details of fenestration are necessary in the interests of the character and appearance of the area.
82. A condition requiring the installation of a mechanical ventilation system is necessary in the interests of providing adequate air quality to future occupants on the lower floors of the approved building.
83. A condition requiring remediation of any contamination found during construction is necessary in the interests of public health.
84. Conditions relating to the testing of energy demand and water usage, and the provision or enabling of electric charging points to the parking spaces, are necessary in the interests of minimising the carbon footprint and water consumption of the building.
85. A condition requiring obscured glazing and privacy screens to specified balconies is necessary in the interests of the privacy of neighbouring occupants at Phoenix School.

86. Conditions requiring the implementation of landscaping, play space and communal amenity provision, cycle storage, and biodiversity mitigation are necessary in the interests of the appearance of the development, the living conditions of future occupants and to support flora and fauna in so far as that is possible.
87. A condition requiring the use of a sustainable drainage scheme is necessary in the interests of reducing flood risk and promoting the sustainable disposal of waste water.
88. Conditions requiring the provision of the wheelchair accessible units to specified building regulation standards and disabled parking spaces is necessary in the interest of the living conditions of disabled future occupants.
89. Conditions controlling deliveries, servicing, and waste collection to and from the building are necessary in the interests of the efficient operation of the building and to avoid potential obstruction of the highway.
90. A condition requiring acoustic protection from transportation and other external noise is necessary in the interests of the living conditions of future occupants.
91. A condition requiring work to cease if a bat roost is found in the existing building is unnecessary because there is no evidence that a bat roost is present. If it were, protection would in any case be afforded by the Wildlife & Countryside Act 1981.
92. The condition requiring secured by design measures has been modified to remove the need to seek approval from a third party, as that is unnecessary and unduly limits the powers and responsibilities of the local planning authority.

Conclusion

93. The development, when viewed in total, would accord with the development plan because the negative consequences of the scheme would be outweighed by the positive benefits. There are no other material considerations that carry weight in this case. Accordingly, I conclude that the appeal should be allowed.

Guy Davies

INSPECTOR

APPEARANCES

FOR THE APPELLANT:

Zack Simons and Isabella Buono of counsel, who called:

Heather Marshall BA (Hons) MSc MRTPI IHBC	Planning Director Heritage, Lichfields
Martin Taylor BSc (Hons) MSc MRTPI MIED	Planning Director, Lichfields
Simon Slatford BA (Hons) MRTPI BPI	Senior Director, Lichfields
Toby Rogan-Lyons Dip SurvPrac	Director, Lichfields
Colin Pullan BA (Hons) DipUD	Senior Director Urban Design, Pegasus Group (formerly Lambert Smith Hampton)

FOR THE COUNCIL:

Phillipa Jackson of counsel, who called:

Samuel Abelman BA (Hons) PgDipSurv MSc IHBC FSA	Heritage and Design Officer, LB Tower Hamlets
Amanda Reynolds RIBA MA (UD)	Director, AR Urbanism
Dr Cosmin Ticleanu BSc PhD MSLL CIBSE	Head of Lighting Team, British Research Establishment
Conor Guilfoyle BSc BA (Hons) MA (Hons)	Senior Planning Officer, LB Tower Hamlets

Lucy Close for the appellant and Diane Phillips for the Council attended the round table session on the legal undertaking and conditions.

DOCUMENTS

Received during or after the inquiry:

1. Opening statement and list of appearances for the appellant
2. Opening statement and list of appearances for the Council
3. Appeal decision – APP/L5240/W/22/3296317
4. Appeal decision – APP/G5180/W/16/3146806
5. Appeal decision – APP/G5180/A/13/2210460
6. CIL Compliance Statement
7. Appeal decision – APP/A5270/W/21/3268157
8. Closing submissions for the Council
9. Closing submissions for the appellant
10. Copy of completed legal undertaking
11. Plan showing extent of S278 works
12. Suggested amendments to conditions.

Schedule of 30 conditions:

1. The development shall begin no 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:

LTH-PRP-ZZ-XX-DR-A-2000-P0 (Location Plan)
LTH-PRP-ZZ-XX-DR-A-2001-P0 (Existing Site Plan)
LTH-PRP-ZZ-XX-DR-A-2002-P0 (Existing Site South Elevation)
LTH-PRP-ZZ-XX-DR-A-2003-P0 (Existing Site East Elevation)
LTH-PRP-ZZ-XX-DR-A-2004-P0 (Existing Site West Elevation)
LTH-PRP-ZZ-XX-DR-A-2005-P0 (Existing Site North Elevation)
LTH-PRP-ZZ-00-DR-A-2101-P0 (Proposed Site Plan Ground Floor)
LTH-PRP-ZZ-00-DR-A-2102-P3 (Proposed Ground Floor Plan)
LTH-PRP-ZZ-01-DR-A-2103-P0 (Proposed First Floor Plan)
LTH-PRP-ZZ-02-DR-A-2104-P0 (Proposed Second Floor Plan)
LTH-PRP-ZZ-03-DR-A-2105-P0 (Proposed Third Floor Plan)
LTH-PRP-ZZ-04-DR-A-2106-P0 (Proposed Fourth Floor Plan)
LTH-PRP-ZZ-05-DR-A-2107-P0 (Proposed Fifth Floor Plan)
LTH-PRP-ZZ-06-DR-A-2108-P0 (Proposed Sixth Floor Plan)
LTH-PRP-ZZ-07-DR-A-2109-P0 (Proposed Seventh Floor Plan)
LTH-PRP-ZZ-08-DR-A-2110-P0 (Proposed Eighth Floor Plan)
LTH-PRP-ZZ-09-DR-A-2111-P0 (Proposed Roof Floor Plan)
LTH-PRP-ZZ-XX-DR-A-2112-P0 (Proposed South Elevation)
LTH-PRP-ZZ-XX-DR-A-2113-P0 (Proposed East Elevation)
LTH-PRP-ZZ-XX-DR-A-2114-P0 (Proposed West Elevation)
LTH-PRP-ZZ-XX-DR-A-2115-P0 (Proposed North Elevation)
LTH-PRP-ZZ-XX-DR-A-2116-P0 (Proposed Site South Elevation)
LTH-PRP-ZZ-XX-DR-A-2117-P0 (Proposed Site East Elevation)
LTH-PRP-ZZ-XX-DR-A-2118-P0 (Proposed Site West Elevation)
LTH-PRP-ZZ-XX-DR-A-2119-P0 (Proposed Site North Elevation)
LTH-PRP-ZZ-XX-DR-A-2120-P0 (Proposed Gross Internal Areas)
LTH-PRP-ZZ-XX-DR-A-2121-P0 (Proposed Site Section)
LTH-PRP-ZZ-00-DR-A-2200-P2 (Landscape - Public Realm)
LTH-PRP-ZZ-01-DR-A-2201-P0 (Landscape - Podium)
LTH-PRP-ZZ-07-DR-A-2202-P0 (Landscape - Roof Terrace)

3. Unless otherwise specified by a S61 Consent granted under the Control of Pollution Act 1974, demolition, building, engineering or other operations associated with the construction of the development (including arrival, departure and loading and unloading of construction vehicles):
 - a) Shall be carried out in accordance with the Tower Hamlets Code of Construction Practice
 - b) Shall only be carried out within the hours of 08:00 and 18:00 Monday to Friday 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(A) at residential and commercial properties, and 65dB(A) at schools and hospitals (LAeq,T where T = 10 hours Monday to Friday and 5 hours for Saturday).
- 4.
 - 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 planning. Vibration from the plant (when assessed as per advice of the version of BS 6472 current at the time of granting 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.
- 5. 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 roof of the building hereby permitted.
- 6. Prior to commencement of above ground works, a Fire Strategy prepared by a qualified assessor shall be submitted to and approved in writing by the Local Planning Authority. The Strategy shall detail how the proposed development will function in terms of:
 - a) The building's construction: methods, products and materials used
 - b) Access for fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of equipment, firefighting lift, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these
 - c) How provision will be made within the site to enable fire appliances to gain access to the building.

The Strategy shall be implemented in accordance with the approved details.

7. No development shall take place until any trees that overhang from adjoining land save for any trees explicitly identified for felling on approved drawings, have been protected in accordance with British Standard 5837 – ‘Trees in relation to Construction Sites’. The tree protection measures shall be retained in place for the duration of the construction works and during this period no works other than landscaping works shall be carried out or materials stored within the protected areas underneath the trees.
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 be carried out in accordance with the approved details.
9. No development shall take place, including any works of demolition, until a Demolition Management 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:
 - i. Telephone, email and postal address of the site manager and details of complaints procedures for members of the public
 - ii. Measures to maintain the site in a tidy condition in terms of disposal/storage of waste and storage of plant and materials
 - iii. Scheme for recycling/disposition of waste resulting from demolition works
 - iv. Ingress and egress to and from the site for vehicles
 - v. Safeguarding of buried services
 - vi. 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
 - vii. Parking of vehicles for site operatives and visitors
 - viii. Measures to ensure that pedestrian access past the site is safe and not obstructed
 - ix. 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
 - x. Mitigation and monitoring measures for Spills and Pollution Prevention, Noise and Vibration and Air Quality.

The development shall be carried out in accordance with the approved details.

10. No development shall take place, excluding any works of demolition, until a Construction and Environmental Management Plan have been submitted to and approved in writing by the Local Planning Authority. The Plan shall aim to minimise the amenity, environmental and road network impacts of the demolition and construction activities and include the details of:
 - i. Telephone, email and postal address of the site manager and details of complaints procedures for members of the public

- ii. Measures to maintain the site in a tidy condition in terms of disposal/storage of waste and storage of plant and materials
- iii. Scheme for recycling/disposition of waste resulting from construction works
- iv. Ingress and egress to and from the site for vehicles
- v. Safeguarding of buried services
- vi. 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
- vii. Parking of vehicles for site operatives and visitors
- viii. Travel Plan for construction workers
- ix. Construction lighting and timings of such, not to unduly impact on neighbouring amenity
- x. Location and size of site offices, welfare and toilet facilities
- xi. Erection and maintenance of security hoardings including decorative displays and facilities for public viewing
- xii. Measures to ensure that pedestrian access past the site is safe and not obstructed
- xiii. 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
- xiv. Mitigation and monitoring measures for Spills and Pollution Prevention, Noise and Vibration and Air Quality.

The development shall be carried out in accordance with the approved Construction and Environmental Management Plan.

11. 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 including measures to reduce the impacts during the construction phase and the parameters to be monitored, duration, locations and monitoring techniques during the earthworks sub-phase. The development shall be undertaken in accordance with the approved Plan.
12. a) Prior to the commencement of the development including demolition, details of all plant and machinery to be used at the demolition shall be submitted to and approved in writing by the Local Planning Authority. 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 therein. All Non-Road Mobile Machinery (NRMM) and plant to be used on the site of net power between 37kW and 560kW 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 phase 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 and site preparations phase. 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 completion of the development.
13. Prior to the commencement of development hereby permitted, excluding demolition, full details of a mechanical ventilation system to protect future occupiers of residential units up to and including the 3rd floor of the building fronting Bow Road from external air pollution shall be submitted to and approved in writing by the Local Planning Authority. The details shall include:
- a) air intakes either located above the 3rd floor or to include NO_x, PM_{2.5}, PM₁₀ filters
 - b) a system designed to minimise energy usage, minimise disturbance to occupiers, be sufficient to prevent summer overheating and have robust maintenance arrangements
 - c) include full calculations for heating, cooling & ventilation, equipment data sheets & specifications of all filtration, deodorising systems, noise output and termination points, along with details of the routing of the mechanical ventilation and the passive provision of associated ducting including scaled plans. Particular attention shall be given to the discharge of toxic or odoriferous extract air where a high level of discharge is usually essential
- None of the residential units shall be occupied until the mechanical ventilation system has been implemented in accordance with the approved details. The system shall be retained and maintained in accordance with the approved details for the lifetime of the development.
14. a) If during the construction works any potential land contamination or unusual odour is encountered, all construction works shall cease immediately and not resume until either:
- i) The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority, or
 - ii) The 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.
- b) If potential contamination is identified pursuant to part (a) of this condition, the development shall not be occupied until land contamination is fully remedied in accordance with a remediation scheme submitted to approved in writing by the Local Planning Authority and a post completion

verification report, including results of sampling and monitoring carried out, has been submitted to and approved in writing by the Local Planning Authority demonstrating that the site remediation criteria have been met.

15. Prior to commencement of development of above ground works, a Zero Carbon Futureproofing statement shall be submitted to and approved in writing by the Local Planning Authority, setting out:

- i) How proposals for energy demand and carbon dioxide emissions post-construction will be monitored annually for at least five years
- ii) How the site has been futureproofed to achieve zero-carbon on-site emissions by 2050 including an assessment of the potential to incorporate the enabling of new technologies such as hydrogen fuel cell technology

The measures agreed shall be implemented and maintained for the lifetime of the development.

16. a) Prior to commencement of the development an updated energy assessment shall be submitted to and approved in writing by the Local Planning Authority demonstrating the scheme has been designed to achieve a minimum 50% reduction in CO² emission unless otherwise agreed with the Local Planning Authority. The assessment will include the 'As Designed' SAP output sheets with the modelling undertaken for SAP 10.2 (or further update).

b) Prior to occupation of the scheme the applicant shall submit a post completion verification report to be approved in writing by the Local Planning Authority. The report must include the 'As Built' energy calculations and confirm that the above minimum standards have been achieved and that all of the approved energy efficiency and sustainability measures have been implemented.

17. No superstructure works shall take place until samples and full particulars of all external facing materials to be used in the construction of the development have been submitted to and approved in writing by the Local Planning Authority. Details submitted pursuant to this condition shall include but are not restricted to:

- a) Mock-up panels of no less than 1m by 1m of each external cladding material. Details of 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
- b) Samples and drawings of fenestration. Details of fenestration, where relevant, shall include reveals, sills and lintels. Drawings shall be at a scale of no less than 1:20
- c) Drawings and details of entrances. Details of entrances, where relevant, shall include doors, reveals, canopies, signage, entry control, post boxes, CCTV, lighting and soffit finishes. Drawings shall be at a scale of no less than 1:20

- d) Details and samples of roofing
- e) Details of any balconies or terraces and associated balustrades, soffits and drainage
- f) Details of any external rainwater goods, flues, grilles, louvres and vents
- g) Details of any external plant, plant enclosures and safety balustrades
- h) 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 be carried out in accordance with the approved details

18. The development shall not be occupied until privacy measures on the north-facing elevation (as shown on drawing number: LTH-PRP-ZZ-XX-DR-A-2119-P0) 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: obscure glazing to north-facing windows which are fixed-shut and non-openable below 1.7m above finished floor level, and measures to prevent overlooking from balconies facing north. The approved privacy measures shall be installed prior to occupation of the development and thereafter retained.
19. 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 ground surfaces, kerbs and planter enclosures
 - b) soft landscaping including number, size, species and location of plants/shrubs/trees, boundary treatments
 - c) a Landscape Management Plan for lifetime maintenance, giving details of proactive maintenance and watering provisions for soft landscaping
 - d) lighting including light spill drawings and proposed Lux levels
 - e) sustainable urban drainage features
 - f) drain covers, manholes and covers for access to drainage and utilities
 - g) play equipment and playable landscape features in the communal and child play space areas
 - h) railings, walls and other means of enclosure
 - i) bollards, gates and other access control measures

- j) furniture including benches and litter bins
- k) CCTV and other security measures
- l) ground levels, gradients, thresholds and inclusive access provisions.

The landscaping scheme shall be completed in accordance with the approved details no later than during the first planting season following practical completion of the development and retained for the lifetime of the development.

Any trees or shrubs which die, are removed or become seriously damaged or diseased within five years from the completion of the landscaping works shall be replaced in the next planting season with the same species or an approved alternative as agreed in writing by the Local Planning Authority.

20. No superstructure works shall take place until a copy of the water efficiency calculator for new dwellings from Building Regulations Approved Document Part G has been submitted to the Local Planning Authority for each dwelling type with a unique sanitary ware and water-consuming appliances specification. The document shall demonstrate that each dwelling will achieve water use of not more than 110 litres per person per day (including a 5 litre per person per day allowance for external water use) in line with the optional requirements of Approved Document G. The calculator tools shall be accompanied by specification documents demonstrating the water consuming fittings and fixtures which have been specified within the dwellings in order to achieve the calculated water use.
21. No superstructure works shall take place until details of biodiversity mitigation and enhancements have been submitted to and approved in writing by the Local Planning Authority. The biodiversity enhancements shall include but not be limited to the following:
 - a) 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
 - b) 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 (or bricks serving as such)
 - c) 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.

22. No superstructure works shall take place until a Sustainable Urban Drainage Scheme (SUDS) including on-going maintenance provisions, in compliance with the approved FRA prepared by Heyne Tillett Steel, 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.

23. Prior to the commencement of superstructure works, a Secured by Design strategy detailing the measures to be incorporated into the development shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the agreed strategy and with any measures maintained thereafter.
24. No superstructure works shall take place until details of cycle storage facilities have been submitted to and approved in writing by the Local Planning Authority including how cycle parking will be allocated to specific residents. No less than 107 long stay cycle parking spaces and 3 short stay parking spaces shall be provided. 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 for the lifetime of the development.
25. The development shall not be occupied until a Communal Amenity Space and Child Play Space Access and Management Plan, ensuring access to communal amenity and child play space areas for all residential occupants including disabled users, has been submitted to and approved in writing by the Local Planning Authority. The Plan shall include details of:
 - a) The cleaning, maintenance, lighting, conduct rules, safety and security of the communal amenity space and child play space
 - b) How access for users will be retained at all reasonable times, with exceptions for short-term maintenance, inspections, repair/replacement/renewal works, adjacent/on-site constructions works, and/or other reasonable scenarios or eventualities, including estimated timescales for resuming access in such instancesThe communal amenity space and child play space shall be completed prior to occupation of the development and shall be operated in accordance with the approved Communal Amenity Space and Child Play Space Access and Management Plan and thereafter be permanently retained in this form.
26.
 - a) Prior to the commencement of above ground works, details identifying six units which shall comply with the Building Regulations 2010 (as amended) optional requirement M4(3)(2)(b) '*wheelchair accessible*', with evidence of how they meet the required standard, shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details and retained thereafter in compliance with the above standards
 - b) 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*'

- c) No residential unit identified in (a) 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. The approved details shall be installed prior to occupation of the units identified in (a) above and thereafter retained
 - d) The lifts shown on the approved drawings shall be installed and in an operational condition prior to the first occupation of the relevant residential access cores. The lifts shall be retained and maintained in an operational condition for the lifetime of the development.
27. a) The three 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 1 car parking space shall be provided with an electric vehicle charging point. Passive provision for future provision of electric charging points shall be made for a further 2 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 the wheelchair accessible car parking 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.
28. Prior to occupation, a Deliveries and Servicing Plan shall be submitted to and approved in writing by the Local Planning Authority. The deliveries and servicing of the approved development shall not take place otherwise than in accordance with the Deliveries and Servicing Plan thus approved. Any servicing which takes place from the public highway can only take place where safe and legal to do so.
29. The development shall not be occupied until a Site Waste Management Plan has been submitted to and approved in writing by the Local Planning Authority. This Plan shall include details to demonstrate compliance with the following guidelines:
- a) Internal waste storage is to be provided for each residential unit
 - b) Bin stores are to be built in accordance with relevant standards

- c) Measurement of bins are to be provided in cubic metres to demonstrate there is sufficient space in bin stores
- d) Sufficient door sizes with catches or stays are to be provided
- e) The facilities are appropriately ventilated
- f) They have a suitably robust design including walls that are fitted with rubber buffers and that any pipes/services are fitted with steel cages
- g) They feature gates/doors with galvanised metal frames/hinges and locks
- h) They have sufficient capacity to service the relevant building/use
- i) They have maintenance facilities, including a wash-down tap and floor drain
- j) All bin stores are to be free from any steps
- k) Bins are to be built in accordance with relevant standards
- m) Information of dropped kerbs is to be provided and within 10m of trolleying distance from bin stores
- n) Waste carrying distance for residents should be maximum 30 metres to the bin store
- o) 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
- p) Details of how the waste collections vehicle will service this proposal including all loading and unloading areas must be provided.

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.

30. None of the approved residential units shall be occupied unless they have first been constructed to ensure that they are adequately protected against external transportation noise sources and external noise without specific character likely to enhance its impact such as tonal, impulsive elements or dominant low frequency content, and that:
- a) The dwellings are laid out on the site, orientated, designed and constructed in line with the principles of "good acoustic design" from the ProPG: Planning & Noise - New Residential Development
 - b) The construction accords with BS8233 'Sound Insulation and Noise Reduction for Buildings'

c) 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

d) Ground and structure-borne noise does not exceed LAmax 35 dB

e) 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'

g) 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

None of the residential units shall be occupied until a post completion verification report, including acoustic test results, has first been submitted to and approved in writing by the Local Planning Authority confirming that the above minimum standards have been achieved.

***** End of conditions*****