

DATED

28th ~~October~~ April

2023

PROLOGIS UK 79 LIMITED

and

VIRTUS LONDON 14 LIMITED

and

THE LONDON BOROUGH OF HILLINGDON

PLANNING OBLIGATION BY DEED PURSUANT TO SECTION 106
OF THE TOWN AND COUNTRY PLANNING ACT 1990 AND ASSOCIATED POWERS
RELATING TO THE DEVELOPMENT OF LAND AT

PROLOGIS PARK

UNIT D

PLOT C

PROLOGIS PARK

STOCKLEY ROAD

HAYES

PLANNING APPLICATION NUMBER: 18399/APP/2022/411

Planning & Corporate Team
London Borough of Hillingdon
Civic Centre, High Street
Uxbridge, Middlesex
Ref: JA/3E/04/021436

THIS PLANNING OBLIGATION BY DEED is dated 28th April 2023
and is made **BETWEEN**:

1. **PROLOGIS UK 79 LIMITED** of Prologis House, Blythe Gate, Blythe Valley Park, Solihull, B90 8AH (company number 14321098) ("the Freehold Owner")
2. **VIRTUS LONDON 14 LIMITED** of 4th Floor, 20 Balderton Street, London, W1K6TL (company number 12698361) ("the Leaseholder");
3. **THE LONDON BOROUGH OF HILLINGDON** of the Civic Centre, High Street, Uxbridge, Middlesex UB8 1UW ("the Council").

BACKGROUND

- A The Council is the local planning authority for the purposes of the 1990 Act in respect of the Land and by whom the obligations in this Agreement are enforceable.
- B The Freehold Owner has a legal interest in the Land pursuant to a transfer dated 16 November 2022.
- C The Leaseholder has an equitable interest in the Land pursuant to an Agreement for Lease with the Freehold Owner dated 22 August 2022.
- D On 14th February 2022, the Owner submitted the Planning Application to the Council for permission to develop the Site for the purposes and in the manner described in the Planning Application.
- E The Owner intends to develop the Site pursuant to the Planning Permission.
- F The Council resolved at its Major Applications Planning Committee meeting on 20th December 2022 to delegate authority to determine the Planning Application to the Director of Planning, Regeneration and Public Realm subject to the prior completion of this Agreement.
- G The Council has considered the provisions of the development plan and taken into account planning considerations affecting the Site and considers that in the interests of the proper planning of its area the Development of the Site ought to only be permitted subject to the terms of this Agreement and for that purpose the parties are willing to enter into this Agreement.

THIS DEED WITNESSES AS FOLLOWS:-

OPERATIVE PROVISIONS

1 INTERPRETATION

1.1 For the purposes of the recitals and this Agreement, the following words and expressions shall have the following meaning:

"1990 Act"	means the Town and Country Planning Act 1990 (as amended);
"Additional Air Quality Contribution"	an ongoing air quality contribution to be paid by the Owner to the Council as a contribution towards measures to improve air quality within the AQMA as a means to offset the excess pollutant emissions of the Site, throughout the Emission Caps Monitoring Period, calculated as set out in Appendix 1 of Schedule 2;
"Air Pollution Emission Monitoring"	air pollution emission monitoring to be undertaken by the Owner in accordance with the approved Air Pollution Emission Monitoring Plan. Actual emissions of all Backup Generators' exhaust gases for NO _x and PM _{2.5} are to be reported in g/s using standardised methods (e.g. EN standards) and a quality assurance system, e.g. in accordance with EN ISO/IEC 17025:2017 [1, CEN 2017], ensuring accurate, reliable, representative and comparable monitoring data, gathered within a 12 month period so as to ensure that the data collected is representative of a full year of operation at various engine loads, in accordance with the Air Pollution Emission Monitoring Plan PROVIDED THAT it is acknowledged that PM _{2.5} can only be subject to spot and not continuous monitoring;
"Air Pollution Emission Monitoring Plan"	a written plan (to include a schedule and methodology) for Air Pollution Emission Monitoring from the diesel Backup Generators' exhaust fumes, to be produced by the Owner and submitted to and approved in writing by the Council (acting reasonably). The Plan shall provide for: A) a periodical undertaking of an Air Pollution Emission Monitoring survey on all Backup Generators' exhaust gases for

	NOx and PM2.5, starting on the second anniversary of the first use of the Backup Generators, and repeated annually thereafter and in alignment with the Environment Agency emission monitoring guidelines; B) the monitoring results gathered as per the schedule of the Air Pollution Emission Monitoring Plan to be suitably processed to enable comparison at dry gas, 273.15K, 101.3kPa, O2 of 5% in tonnes per year for each pollutant; C) an appropriate methodology and schedule that will allow the Council to ascertain compliance with the Emission Caps throughout the Emission Caps Monitoring Period and will be calculated using the Emission Monitoring Formula;
"Air Pollution Emission Monitoring Survey Report"	the report of the survey of actual annual emissions of the proposed diesel Backup Generators to be undertaken by the Owner including tabulation of the associated results to be submitted by the Owner to the Council in writing in accordance with the terms of the Air Pollution Emission Monitoring Plan;
"Air Quality Contribution – Damage Cost 1"	the Index Linked sum of £473,510.00 (Four Hundred and Seventy-Three Thousand Five Hundred and Ten Pounds) only to be paid by the Owner to the Council as a contribution towards measures to improve air quality both in the vicinity of the Site in the AQMA and across the wider area for offsetting emissions resulting from the Operation of the Development and in support of the implementation of the air quality local action plan;
"Air Quality Contribution – Damage Cost 2"	the sum of £1,646,763 (One Million-Six Hundred Forty-Six Thousand Seven Hundred Sixty Three Pounds) which shall be used to calculate Fee A as per Appendix 1 of Schedule 2;
"AQMA"	the Air Quality Management Area designated in 2003, covering all areas within the borough south of the Chiltern-Marylebone railway due to exceedances of

	the annual mean Nitrogen Dioxide (NO ₂) objective;
"Auditor"	means a suitably qualified, experienced and independent person nominated by the Owner and approved in writing by the Council for the purpose of verifying the results of the Air Pollution Emission Monitoring;
"Authority's Area"	means the administrative area of the Council;
"Backup Generators"	a bank of generators (currently proposed to be powered by diesel) comprised within the Development required to supply energy in the event ordinary supply to the Development fails, which will be operated according to a suitable testing and maintenance regime to be agreed with the Council;
"Carbon Offset Contribution"	means the Index Linked sum of £1,301,562 (One Million Three Hundred and One Thousand Five Hundred and Sixty-Two Pounds) referred to in Schedule 1 as a contribution to be used by the Council towards the provision of offsite carbon reduction measures within the Authority's Area;
"Commencement of Development"	means the carrying out in relation to the Development of any material operation (as defined within section 56(4) of the 1990 Act) on the Site pursuant to the Planning Permission but (for the purposes of this Agreement) excluding operations consisting of: - site clearance; - demolition (provided always that such works do not relate to any listed building within the Site); - archaeological investigations and works; - ground investigations; - site survey works; - temporary access construction works; - preparatory or remediation works; - works for the laying termination or diversion of services; - the erection of any temporary means of enclosure or site notices;

	- decontamination works; - erection of any fences and hoardings around the Site; and - environmental site investigations, and Commence and Commenced shall be construed accordingly
“Commercial Travel Plan”	means a framework plan to be provided and adopted by the Owner as approved in writing by the Council to encourage means of travel to and from the Commercial Unit other than by private car only in accordance with Schedule 3;
“Commercial Travel Plan Bond”	means the bond in the sum of twenty thousand pounds (£20,000) to secure compliance with Schedule 3 or the Commercial Travel Plan in order to meet the objectives of the Commercial Travel Plan in a form first approved by the Council in writing;
“Commercial Travel Plan Co-Ordinator”	means the person or persons to be appointed by the Owner to act as co-ordinator of the Commercial Travel Plan who shall be responsible for the implementation, monitoring and progress reporting of the Commercial Travel Plan for a period of not less than the Travel Plan Monitoring Period (or as otherwise provided for in paragraph 13 of Schedule 3) in order to achieve the objectives of the Commercial Travel Plan;
“Commercial Unit”	means the property known as Unit D, Plot C, Prologis Park, Stockley Road, West Drayton, UB7 9FN but only where the same is in Qualifying Occupation;
“Contributions”	means: (i) The Air Quality Contribution - Damage Cost 1; (ii) the Carbon Offset Contribution; (iii) Energy Monitoring, Recording and Reporting Plan (EMRRP) Contribution; and (iv) any Additional Air Quality Contribution which is paid to the Council in accordance with Paragraph 3, Schedule 2 of this Agreement and for the purposes of clause 14 only shall include the Emission Caps Monitoring Contribution;

"Director of Planning, Regeneration and Public Realm"	means the Council's Director of Planning, Regeneration and Public Realm or such person as the Council designates as undertaking this role;
"Development"	means the development of the Site pursuant to the Planning Permission;
"Emission Caps"	the maximum total annual emissions (in tonnes per year) for oxides of nitrogen (NOx) and particulate matter of 2.5 microns diameter (PM2.5) as a result of the annual operation of the diesel Backup Generators (and which, for the avoidance of doubt, are directly related to the number of hours of the testing and maintenance regime for the Backup Generators) not to be exceeded (as calculated in accordance with the relevant condition attached to the Planning Permission and as set out in the Pollution Emission Monitoring Plan), equating to 1.843 tonnes of NOx per year and 0.062 tonnes of PM2.5 per year (all PM is considered to be PM2.5);
"Emission Caps Monitoring Contribution"	the sum of Eighty Two Thousand Three Hundred and Thirty Eight Pounds and fifteen pence (£82,338.15), to be paid by the Owner to the Council, towards the Council's costs of monitoring compliance with the agreed Emission Caps in this Agreement;
"Emission Caps Monitoring Period"	thirty (30) years beginning on the second anniversary of commencement of Operation of all of the proposed diesel Backup Generators, according to the schedule in the Air Pollution Emission Monitoring Plan (or such reduced period as may be agreed in writing by the Council);
"Emission Monitoring Formula"	total annual emissions in tonnes per year for the Development per pollutant = (emissions measured (in g/s) of SCR emissions multiplied by abated operating time (in hours) plus emissions measured (in g/s) of non-abated emissions multiplied

	by non-abated operating time (in hours)) multiplied by the number of units of diesel Backup Generators) x 1/1,000,000 x 60 x60;
“Energy Monitoring, Recording and Reporting Plan (EMRRP)”	means a plan to be submitted to the Council for written approval prior to the Operation of Development in accordance with Condition 8 of the Planning Permission, such plan shall provide the following: The EMRRP shall accord with the requirements of Policy SI2 of the London Plan (2021) and the GLA Energy Assessment Guidance (April 2020 or as amended) and demonstrate that the Development will secure the 65% saving in CO2 emissions from the regulated energy load in accordance with the Energy Strategy (27 September 2022) (the “Carbon Saving”) (with any failure to achieve the same as notified by the Council in accordance with paragraph 6(a) of Schedule 1). The Development must proceed in accordance with the approved reporting structure and the Energy Monitoring, Recording and Reporting Plan (EMRRP) Contribution will be payable where the Council have identified that the Development does not achieve the Carbon Saving
“Energy Monitoring, Recording and Reporting Plan (EMRRP) Contribution”	means an Index Linked in-lieu contribution towards the Council's carbon offset fund to be calculated at £95/tCO2 annualised over 30 years (i.e. shortfall x 30 x 95 = £contribution). This is payable where the Council have identified there is a failure to achieve the Carbon Savings as set out in the Energy Monitoring, Recording and Reporting Plan (ERRP) and this failure (tCO2) shall be treated as part of the overall carbon shortfall and is payable in accordance with the formula set out in this definition.
“Form PO1”	means the form in the substantial format attached at Appendix 1 ;
“GLA”	means Greater London Authority;

"Index Linked"	means the application of the formula provided clause 15;
"Interest"	means interest at the rate of 4% above the base lending rate of the HSBC Bank Plc from time to time;
"Land"	means the land comprising the Site;
"London Plan"	means the London Plan published in March 2021 as revised from time to time;
"Occupied"	means occupation for any purpose for which Planning Permission has been granted but not including occupation by personnel engaged in the construction, fitting out or occupation for marketing or display purposes and for security purposes and Occupation, Occupy and Occupiers shall be construed accordingly;
"Operation"	means the operation of any or all of the Backup Generators pursuant to the Planning Permission and 'Operate' shall be construed accordingly;
"Owner"	means the Freehold Owner and the Leaseholder and their successors in title and the Agreement shall be enforceable as set out in clause 5 of the Operative Provisions of this Agreement;
"Plan"	means the plan attached to this Agreement at Appendix 2 ;
"Planning Application"	means the application for planning permission for installation of plant and equipment to unit DC6 including external plant equipment, external louvres and associated security fencing and landscaping, to facilitate use of the building as a data centre under the Council's reference number 18399/APP/2022/411;
"Planning Obligations Officer"	means the Council's Planning Obligations Officer or such person as the Council designates as undertaking this role;
"Planning Permission"	means the planning permission that may be granted in pursuance of the Planning Application substantially in the form of the draft permission at Appendix 3 ;
"Planning Reference"	means planning reference 18399/APP/2022/411;

"Planning Application 18399/APP/2013/1019 Travel Plan"	means the travel plan submitted under Condition 10 of planning application 18399/APP/2013/1019 and subsequently approved by the Council under planning application 18399/APP/2013/3449;
"Project Management and Monitoring Fee"	means the sum equivalent to five percent (5%) of the relevant Contribution to be used by the Council at its discretion for its costs incurred in administering, monitoring, reviewing and implementing this Agreement;
"Qualifying Occupation"	means occupation for use as a data centre;
"Site"	means the property known as Unit D, Plot C, Prologis Park, Stockley Road, West Drayton, UB7 9FN and shown for identification purposes only edged red on the Plan;
"Specified Date"	means the date upon which an obligation arising under this Agreement is due to be performed;
"Travel Plan Auditor"	means a suitably qualified, experienced and independent person nominated by the Owner and approved in writing by the Council for the purpose of verifying the results of the Travel Plan Monitoring
"Travel Plan Monitoring"	means a survey of employees/residents/users, being persons making the journey to/from the Development, using a questionnaire in a form supplied or approved by the Council with the object of ascertaining the modes of transport used by such persons (or any alternative method of achieving that object approved in writing by the Council from time to time);
"Travel Plan Monitoring Period"	means the period of up to a maximum of five (5) years beginning on first Qualifying Occupation of the Commercial Unit;
"Travel Plan Targets"	means for targets for achieving a decrease in the proportion of persons travelling to and from the Commercial Unit by private car only to using more sustainable modes of transport (where walking, cycling or the use of public transport are more sustainable than using a car) as calculated in the Commercial Travel Plan which shall be submitted to and approved by the Council for the Commercial Unit;
"VAT"	means value added tax chargeable under the Value Added Tax Act 1994 and any

	similar replacement tax and any similar additional tax; and
"Working Day"	means any day except Saturday, Sunday and any bank or public holiday and Working Days shall be construed accordingly.

1.2 In this Agreement:

- 1.2.1 the clause headings do not affect its interpretation;
- 1.2.2 unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships;
- 1.2.3 a reference to any party shall include that party's personal representatives, successors, any person deriving title through or under that party, and permitted assigns and in the case of the Council the successors to its respective statutory functions;
- 1.2.4 unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;
- 1.2.5 the headings in this Agreement are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;
- 1.2.6 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a Part or paragraph are to a Part of paragraph of that Schedule;
- 1.2.7 where the agreement, approval, consent or an expression of satisfaction is required by the Owner under the terms of this Agreement from the Council that agreement, approval, consent or satisfaction shall be given in writing and shall not be unreasonably withheld or delayed;
- 1.2.8 references to any statute or statutory provision include references to:
 - 1.2.8.1 all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by subsequent legislation; and
 - 1.2.8.2 any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
- 1.2.9 references to the Site include any part of it;
- 1.2.10 "including" means "including, without limitation";

- 1.2.11 any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.12 without prejudice to the terms of any other provision contained in this Agreement the Owner shall pay all costs, charges and expenses (including without prejudice to legal costs and surveyor's fees) reasonably incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Owner arising under this Agreement;
- 1.2.13 where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them jointly or against each of them individually; and
- 1.2.14 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement is to be unaffected.

2 LEGAL BASIS

- 2.1 This Agreement is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act and are (unless expressly stated otherwise in this Agreement) enforceable by the Council as local planning authority against the Owner without limit of time.
- 2.2 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 16 of the Greater London Council (General Powers) Act 1974, section 2 of the Local Government Act 2000, section 1 of the Localism Act 2011 and all other enabling powers with the intent that it will bind the Owner and their successors in title to the Site.

3 CONDITIONALITY

The obligations contained in the schedules to this Agreement are subject to and conditional upon:

- (i) the grant of the Planning Permission; and
- (ii) Commencement of the Development.

All other parts of this Agreement shall be of immediate force and effect unless otherwise stated.

4 MISCELLANEOUS

- 4.1 Nothing contained or implied in this Agreement shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of their functions as local planning authority and their rights, powers, duties and obligations under all public and

private statutes, bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.

- 4.2 Nothing in this Agreement prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than the Planning Permission, granted after the date of this Agreement, whether or not pursuant to an appeal.
- 4.3 No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the covenants undertakings obligations or restrictions contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertakings or obligations from acting upon any subsequent breach or default in respect of the Owner.
- 4.4 Nothing in this Agreement shall be construed as a grant of planning permission.
- 4.5 Unless expressly stated in this Agreement, the covenants in this Agreement shall be enforceable without any limit of time against the Owner and any successors in title to the Site and assigns of the Owner in an interest or estate to the Site or any part or parts of the Site as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.
- 4.6 No party to this Agreement nor its successors in title nor any person deriving title from or under them shall be liable for any breach of any of the planning obligations or other obligations contained in this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 4.7 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed or revoked or otherwise withdrawn or (without the consent of the Owner or their successors in title) is modified by any statutory procedure or expires prior to Commencement of Development.
- 4.8 In the event that the planning obligations contained in this Agreement being modified a note or memorandum thereof shall be endorsed upon this Agreement.
- 4.9 The Agreement cannot be amended or discharged without the prior consent in writing of the Owner and the Council or their respective successors in title.

5 THE OWNER'S PLANNING OBLIGATIONS

- 5.1 The Freehold Owner covenants with the Council that where it or a successor in title (other than the Leaseholder) Occupies the Land for a Qualifying Occupation it will observe the restrictions and perform the obligations set out in the Schedules to this Agreement but shall otherwise have no liability for the performance of the obligations contained within this Agreement;
- 5.2 The Leaseholder covenants with the Council that where it or a successor in title Occupies the Land for a Qualifying Occupation it will observe the restrictions and

perform the obligations set out in the Schedules to this Agreement but shall otherwise have no liability for the performance of the obligations contained within this Agreement;

- 5.3 It is acknowledged and agreed that the obligations in this Agreement shall be of no further legal effect in the event that the Land is not subject to a Qualifying Occupation.

6 COSTS

- 6.1 The Leaseholder hereby covenants with the Council that on completion of this Agreement it will pay the Council's reasonable and proper legal costs, together with all disbursements, incurred in connection with the negotiation, preparation, completion and registration of this Agreement.
- 6.2 At any time a Contribution is paid to the Council in connection with the obligations within this Agreement, the Owner will pay to the Council the Project Management and Monitoring Fee relevant to that Contribution. For the avoidance of doubt the Project Management and Monitoring Fee shall be paid in addition to the costs referred to in clause 6.1 above.

7 REGISTRATION OF AGREEMENT

The Owner recognises and agrees that the covenants in this Agreement shall be treated and registered as local land charges for the purposes of the Local Land Charges Act 1975.

8 RIGHT OF ACCESS

- 8.1 Without prejudice to the Council's statutory right of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising under the Agreement has been performed or observed subject always to the Council adhering to the Owner's reasonable access protocols notified to the Council in advance.

9. ARBITRATION

- 9.1 Any dispute, controversy or claim arising out of or relating to this Agreement, including any question regarding its breach, existence, validity or termination or legal relationship established by this Agreement shall be finally resolved by arbitration in accordance with the Arbitration Act 1996. It is agreed that:

9.1.1 the tribunal shall consist of one other arbitrator appointed jointly by the parties;

9.1.2 in default of the parties' agreement as to the arbitrator, the arbitrator shall be appointed on either party's request by the President for the time being of the Royal Institution of Chartered Surveyors;

9.1.3 the costs of the arbitration shall be payable by the parties in the proportions determined by the arbitrator (or if the arbitrator makes no direction, then equally); and

9.1.4 the seat of the arbitration shall be London

10. THIRD PARTIES

A person who is not named in this Agreement does not have any right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.

11. NOTICES

11.1 All notices served under or in connection with this Agreement shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party;

11.2 Any notice to be served under or in connection with this Agreement shall be sent to the:

a) Director of Planning, Regeneration and Public Realm London Borough of Hillingdon, Civic Centre, High Street, Uxbridge, Middlesex, UB8 1UW and shall cite the Planning Reference for this Agreement; and

b) The Freehold Owner at Prologis House Blythe Gate, Blythe Valley Park, Solihull, B90 8AH; and

c) The Leaseholder at 4th Floor, 20 Balderton Street, London, W1K 6TL

12. FORM PO1

Prior to Commencement of the Development the Owner shall notify the Council that it intends to Commence the Development by completing and sending Form PO1 (in the form at Appendix 1) to the Council addressed to the Planning Obligations Officer, 3 North, London Borough of Hillingdon, High Street Uxbridge UB8 1UW or by email to cil@hillington.gov.uk and shall cite the Planning Reference.

13. CHANGE IN OWNERSHIP

The Owner agrees to provide the Council with immediate written notification of any change in Ownership of any of its interest in the Land occurring before all of the obligations under this Agreement have been discharged (such notice to give details of the transferee's full name and registered office) together with the area of the Land or unit of occupation purchased by reference to a plan and the Planning Reference.

14. CONTRIBUTIONS

14.1 Payment of the Contributions required by this Agreement shall be made on the following basis:

(a) The Contributions due under this Agreement shall be delivered to the person and address specified in clause 11 above;

(b) Pursuant to the Local Government Act 2003, the Council shall be at liberty to charge the Contributions to a Council revenue account and for the avoidance of doubt it is agreed and declared that this shall be without prejudice to the Council's right to apply the Contributions or any part or parts thereof to revenue purposes or to capital purposes or partly to the one and partly to the other

14.2 Where any sum is paid for a particular purpose in accordance with this Agreement the Council shall not use the payment otherwise than for that purpose or for such other purpose as the Owner (at its absolute discretion) and the Council may agree in writing.

14.3 In the event that the Contributions or any element or part of the Contributions remain unspent or committed unconditionally to be spent within seven (7) years after the date on which the relevant Contribution was paid to the Council, then the Council shall within 28 days of a written demand return to the payee the unexpended or uncommitted (as the case may be) part of the Contributions (with any accrued interest).

15. INDEXATION

The Owner agrees with the Council that any sums payable by the Owner under this Agreement shall be increased by the application of the formula $A=B \times C/D$ where:

- (a) A is the sum actually payable on the Specified Date;
- (b) B is the original sum mentioned in this Agreement;
- (c) C is the Index of Retail Prices for the month 2 months before the Specified Date;
- (d) D is the Index of Retail Prices for the month 2 months before the date of this Agreement; and
- (e) C/D is equal to or greater than 1.

16. INTEREST

All costs, payments and expenses payable to the Council under this Agreement shall bear the Interest rate from time to time being charged from the date such payment is due until the payment is received by the Council.

17. VAT

17.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable.

17.2 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of the Land and the Contributions then to the extent that VAT had not been previously charged in respect of that payment the Council shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

18. JURISDICTION

This Agreement is governed by and interpreted in accordance with the law of England and Wales.

19. MORTGAGEE

Obligations under this Agreement shall not be binding on any mortgagee, chargee or receiver unless and until such mortgagee, chargee or receiver enters into possession of the Land or part of the Land to which the obligation relates in which case the

obligations shall only be binding on that party that has entered into possession of the Land or part of the Land.

This document has been executed as a deed and is delivered and takes effect on the date stated at the beginning of it.

SCHEDULE 1
CARBON OFFSET CONTRIBUTION

The Owner hereby covenants and agrees with the Council as follows:

- 1 Prior to Commencement of Development to pay to the Council the Carbon Offset Contribution; and
- 2 Not to Commence or cause or allow or permit Commencement until the Carbon Offset Contribution has been paid to the Council; and
- 3 Prior to Operation to submit to the Council for approval in writing the Energy Monitoring, Recording and Reporting Plan (EMRRP) as required by Condition 7 of the Planning Permission; and
- 4 Subject to the Council serving on the Owner written confirmation that there has been a failure to achieve the Carbon Savings recorded in the Energy Monitoring, Recording and Reporting Plan (EMRRP) in accordance with Paragraphs 6(a) and (b) of this Schedule 1, the Owner shall pay the Energy Monitoring, Recording and Reporting Plan Contribution to the Council within 20 Working Days of the Owner's receipt of such written notification.
- 5 The Council hereby covenants and agrees with the Owner as follows:
 - 6 That where there is a failure to achieve the Carbon Savings recorded in the Energy Monitoring, Recording and Reporting Plan (EMRRP) the Council will:
 - (a) notify the Owner in writing that the Energy Monitoring, Recording and Reporting Plan Contribution is payable; and
 - (b) make a written request for payment of the Energy Monitoring, Recording and Reporting Plan Contribution within 20 Working Days of the notification pursuant to Paragraph 6(a) being received by the Owner
- 7 The provisions of this Schedule 1 shall cease and determine on the expiry of thirty (30) years from Commencement of Development or (if earlier) the Operation ceasing, save in the case of antecedent breach, which shall continue to be enforceable by the Council in accordance with clause 5 of this Agreement.

SCHEDULE 2

AIR QUALITY CONTRIBUTION.

The Owner hereby covenants and agrees with the Council as follows:

1. To submit to the Council the Air Pollution Emission Monitoring Plan prior to Operation of the Development
2. Auditor
 - 2.1 The Owner hereby covenants and agrees to appoint an Auditor (at its own expense) within twenty one (21) months of first Operation, and to have an Auditor appointed or re-appointed for the duration of the Emission Caps Monitoring Period.
3. Backup Generators
 - 3.1 Prior to Operation to pay to the Council the Air Quality Contribution – Damage Cost 1 and the Emission Caps Monitoring Contribution;
 - 3.2 Not to Operate or cause or allow or permit Operation until the Air Quality Contribution – Damage Cost 1 and the Emission Caps Monitoring Contribution have been paid in full to the Council;
 - 3.3 To pay to the Council the Additional Air Quality Contribution - (if triggered) as prescribed in Appendix 1 of this Schedule 2.
4. Replacement Backup Generators
 - 4.1 The Owner hereby covenants and agrees with the Council not to install replacement or additional generators to the proposed Backup Generators proposed (whether Backup Generators or otherwise)) unless details of the same (including air pollutant emission concentrations and corresponding emission rates prior to SCR abatement) have been provided to, and approved in writing by, the Council, in order that the impact on the environment shall not exceed (and preferably is substantially less than) the impact of the Backup Generators initially installed as standard ELV for nitrogen oxides of 190mg/Nm³ at temperature and pressure of 273.15K and 101.3kPa, with a correction for the water vapour content of the waste gases to dry gas, standardised to O₂ concentration of 15% and as standard ELV for particulate matter of 10mg/Nm³ at temperature and pressure of 273.15K and 101.3kPa, with a correction for the water vapour content of the waste gases to dry gas, standardised to O₂ concentration of 15% although it is acknowledged that betterment is not a requirement.
5. The obligations in this Schedule 2 (and Appendix 1 to Schedule 2) shall cease on the expiry of the Emission Caps Monitoring Period or (if earlier) the Operation ceasing,

save in the case of antecedent breach which shall continue to be enforceable by the Council in accordance with clause 5 of this Agreement.

APPENDIX 1 TO SCHEDULE 2

1. At each monitoring year scheduled in the Air Pollution Emission Monitoring Plan over the Emission Caps Monitoring Period, the collected emission monitoring data by the Owner shall be processed as agreed in the Air Pollution Emission Monitoring Plan, to derive the total for NO_x and PM_{2.5} annual emissions in tonnes per year for all Backup Generators, and submitted to the Council to verify the Backup Generators' performance for pollutant emissions and compare their resulting total annual emissions with the total annual emissions (designated in this Agreement by Emission Caps) on which the Air Quality Initial Contribution – Damage Cost 1 was calculated. The total measured annual emissions shall be calculated as per the Emission Monitoring Formula.
2. If during any one year of the Emission Caps Monitoring Period the Owner:
 - a. fails to submit the Air Pollution Emission Monitoring Survey Report as per the agreed schedule contained in the Air Pollution Emission Monitoring Plan, within the timetable specified in the Air Pollution Emission Monitoring Plan; and / or
 - b. exceeds the total annual Emission Caps of 0.1843 tonnes of NO_x per year and/ or 0.062 tonnes of PM_{2.5} per year (PM_{2.5} defined as total PM emissions) associated with the total operation of the proposed diesel Backup Generators (testing, maintenance and emergency),

the Council shall notify the Owner of the Owner's failure to comply with the requirements of this paragraph and no later than 30 Working Days following receipt of such notification, the Owner shall pay – when applicable – either Fee A or Fee B (defined below) or both, to the Council for the deployment of further measures to safeguard human health:

- i. Fee A to be paid by the Owner to the Council in each and every instance the Owner fails to deliver the Air Pollution Emission Monitoring Survey Report and the yearly monitoring data as agreed under the emission monitoring schedule:

Fee A = 10% of £1,646,763 being £164,676.30

- ii. Fee B to be paid by the Owner to the Council in the instance the Owner exceeds the Emission Caps for either NO_x or PM_{2.5} or both (please note all PM emissions are assumed to be PM_{2.5})

Fee B = ((measured total annual NOx emissions (in tonnes of NOx/year) – (0.1843 tonnes of NOx/year)) x £66,697.00) + ((measured total annual PM2.5 emissions (in tonnes of PM2.5/year) – (0.062 tonnes of PM2.5/year)) x £ 226,997.00).

3. The Council shall be entitled to:
- a. carry out its own air pollution emission auditing surveys (as appropriate) as defined in the Air Pollution Emission Monitoring Plan;
 - b. undertake its own analysis of the air pollution emission monitoring data provided by the Owner in the Air Pollution Emission Monitoring Plan; and
 - c. for the duration of the Emission Caps Monitoring Period shall be entitled to recover its reasonable costs pursuant to this paragraph 3, from the Owner, such costs to be paid to the Council within 30 Working Days of the date of issue of a written demand for payment.

SCHEDULE 3

COMMERCIAL TRAVEL PLAN

The Owner hereby covenants and agrees with the Council as follows:

1. Not to Occupy the Commercial Unit for a Qualifying Occupation until the Commercial Travel Plan has been submitted to and approved in writing by the Council (such approval not to be unreasonably withheld or delayed).
2. The Commercial Travel Plan shall include as a minimum:
 - 2.1 Company name, hours of operation and proposed number of staff;
 - 2.2 Details as to compliance with TfL methodology and details of the methodology to be used to implement and monitor the Commercial Travel Plan;
 - 2.3 The length of the Travel Plan Monitoring Period for the Commercial Travel Plan which shall not be less than the Travel Plan Monitoring Period;
 - 2.4 A timetable for the preparation, implementation, monitoring and review (within the Travel Plan Monitoring Period) of all stages of the Commercial Travel Plan;
 - 2.5 The period post first Qualifying Occupation when the initial Travel Plan Monitoring will be undertaken and details of subsequent Travel Plan Monitoring for the purposes of assessing achievement of Travel Plan Targets;
3. The Commercial Travel Plan shall be implemented by the Owner as soon as reasonably practicable following first Qualifying Occupation and in any event no later than two (2) months following first Qualifying Occupation of the Commercial Unit.
4. To procure the funding and implementation of the Commercial Travel Plan in accordance with the actions and timetable specified therein and thereafter to comply with the Commercial Travel Plan for the Travel Plan Monitoring Period.
5. The Owner shall not Occupy any part of the Commercial Unit for a Qualifying Occupation until a Commercial Travel Plan Co-ordinator has been appointed and details of the name, office, address, email address and telephone number of the said Commercial Travel Plan Co-ordinator have been supplied to the Council and TfL in the case of referred applications to the GLA.
6. The Owner shall be responsible for the reasonable and proper costs of any Travel Plan Monitoring and auditing and any remuneration and reasonable and proper expenses payable to the Commercial Travel Plan Co-ordinator and the Travel Plan Auditor.
7. In the event that the Commercial Travel Plan Co-ordinator resigns or is otherwise dismissed from employment for any reason during the Travel Plan Monitoring

Period, the Owner will employ (or will procure the employment of) a replacement Commercial Travel Plan Co-ordinator as soon as reasonably practicable.

8. Following approval of the Commercial Travel Plan for the Commercial Unit the Commercial Travel Plan Co-ordinator shall monitor and review the Commercial Travel Plan for a period of not less than the Travel Plan Monitoring Period including undertaking the following:
 - 8.1 within twenty eight (28) days of the first Qualifying Occupation of the Commercial Unit to provide written details of the Commercial Travel Plan to all Qualifying Occupiers of the Commercial Unit;
 - 8.2 to use reasonable endeavours to ensure that employees/users of the Commercial Unit for a Qualifying Occupation comply with the Commercial Travel Plan;
 - 8.3 to undertake the initial Travel Plan Monitoring which shall not be carried out later than one (1) year after first Qualifying Occupation of the Commercial Units and to undertake an annual review of the Commercial Travel Plan and provide a written report within twenty eight (28) days of the review to the Council;
 - 8.4 to supply the Council with a statistical summary of the modes of transport used by employees/users disclosed by any Travel Plan Monitoring or copies of any questionnaires completed by employees/users; and
 - 8.5 to secure that the results of the Travel Plan Monitoring are verified by an Auditor within two (2) calendar months of the Travel Plan Monitoring taking place by methods that accord with the reasonable requirements of the Council.
9. The Owner will implement any reasonable recommendations made by the Council following each annual review of the Commercial Travel Plan within twenty-eight (28) days of such recommendation being made by the Council.
10. Prior to first Qualifying Occupation of the Commercial Unit the Owner shall enter into a Commercial Travel Plan Bond in order to secure the due performance by the Owner of its Travel Plan Monitoring and reporting obligations, or the achievement of Travel Plan Targets as contained in the Commercial Travel Plan.
11. The Council shall not be entitled to drawdown any of the Commercial Travel Plan Bond except in the event of a default by the Owner to submit one or more Travel Plan Monitoring surveys, as shall be detailed in the Commercial Travel Plan, within the timetable specified in the Commercial Travel Plan or failure to achieve Travel Plan Targets and the Council shall only be entitled to drawdown any of the Commercial Travel Plan Bond as is necessary in order to cover the proper and reasonable cost the Council incurs in carrying out the said Travel Plan Monitoring or implementing measures to achieve compliance with the aims of the Commercial Travel Plan, to include implementing measures to achieve Travel Plan Targets.
12. The Commercial Travel Plan Bond shall be released following the expiration of the Travel Plan Monitoring Period
13. The obligations of this Schedule 3 shall:

13.1 upon first Qualifying Occupation replace the Planning Application 18399/APP/2013/1019 Travel Plan to the extent they relate to the Land only during the period, and to the extent that, the Commercial Unit is in Qualifying Occupation;

13.2 cease on the expiry of the Travel Plan Monitoring Period save in the case of antecedent breach which shall continue to be enforceable by the Council in accordance with clause 5 of this Agreement; and

13.2 be of no legal effect unless the Commercial Unit is in Qualified Occupation

APPENDIX 1
FORM PO1

TO: PLANNING OBLIGATIONS OFFICER
PLANNING AND REGENERATION
LONDON BOROUGH OF HILLINGDON
3N CIVIC CENTRE
HIGH STREET UXBRIDGE
MIDDLESEX UB8 1UW
EMAIL: cil@hillingdon.gov.uk

FORM PO1

SECTION 106/278 LEGAL AGREEMENT

SITE ADDRESS: _____

PLANNING REFERENCE: _____

DESCRIPTION OF DEVELOPMENT: _____

DATE OF COMMITTEE AUTHORISATION: _____

SECTION 106 OBLIGATIONS

DATE OF IMPLEMENTATION OF DEVELOPMENT: _____

(i) NOTIFIED TO THE COUNCIL: _____

(ii) SUBMITTED TO THE COUNCIL WITH THIS FORM: _____

NB: Please continue on separate sheet(s) if necessary.

**TICK BOX IF THIS FORM IS TO CONSTITUTE THE "FIRST NOTICE"
UNDER THE SECTION 278 HIGHWAY AGREEMENT IF THIS IS THE
"FIRST NOTICE" PLEASE ATTACH THE "FIRST PAYMENT" AS
SPECIFIED IN THE AGREEMENT**

☐

FOR COUNCIL USE

**NB: IF THIS IS THE FIRST NOTICE PASS IMMEDIATELY TO HIGHWAYS
ENGINEERS**

COST CODE: _____

PLANNING COSTS: _____

LEGAL COSTS: _____

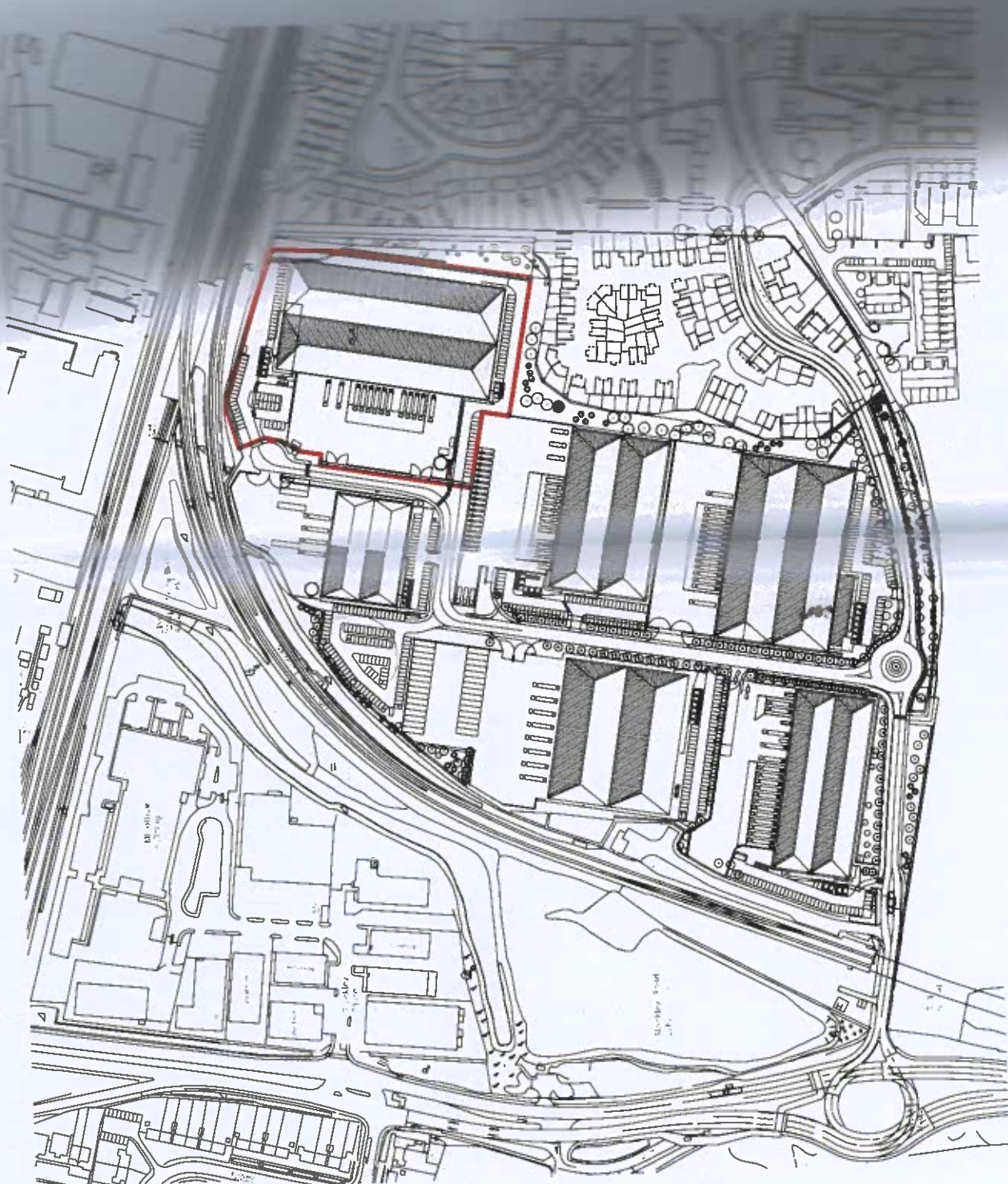
OTHER COSTS (IDENTIFY): _____

MAINTENANCE COSTS (COMMUTED SUM) _____

INTEREST BEARING ACCOUNT FOR BENEFIT OF OBLIGATIONS

YES/NO

APPENDIX 2
PLAN



Notes

MEMBER OF THE COUNCIL

AUTHORISED OFFICER

Handwritten signature: *[Signature]*

1 Planning Location Plan - 1/1250

[illegible]

APPENDIX 3
DRAFT PLANNING PERMISSION

DRAFT

Miss Kathryn Humber
Savills
Savills
33 Margaret Street
London
W1G 0JD

Application Ref: 18399/APP/2022/411

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

GRANT OF PLANNING PERMISSION

The Council of the London Borough of Hillingdon as the Local Planning Authority within the meaning of the above Act and associated Orders **GRANTS** permission for the following:

Description of development:

Installation of plant and equipment to unit DC6 including external plant equipment, external louvres and associated security fencing and landscaping, to facilitate use of the building as a data centre.

Location of development: Unit D Prologis Park Stockley Road West Drayton

Date of application: 10th February 2022

Plan Numbers: See attached Schedule of plans

Permission is subject to the condition(s) listed on the attached schedule:-

Draft Decision Notice produced:

Checked by:..... **Date:**.....

Amendments required: YES / NO

- NOTES:
- (i) Please also see the informatives included in the Schedule of Conditions.
 - (ii) Should you wish to appeal against any of the conditions please read the attached sheet which explains the procedure.
 - (iii) This decision does not convey any approval or consent which may be required under any by-laws, building regulations or under any Act other than the Town and Country Planning Act 1990 (as amended).

DRAFT

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

GRANT OF PLANNING PERMISSION

Application Ref: 18399/APP/2022/411

SCHEDULE OF CONDITIONS

- 1 The development hereby approved shall be begun before the expiration of three years from the date of this permission.

REASON

To comply with Section 91 of the Town and Country Planning Act 1990.

- 2 The development hereby approved shall not be carried out except in complete accordance with the details shown on the following plans, numbers:

21-079-SGP-SIT-ZZ-DR-A-130000;
21-079-SGP-SIT-ZZ-DR-A-130001;
21-079-SGP-SIT-ZZ-DR-A-130002;
21-079-SGP-SIT-ZZ-DR-A-130100;
21-079-SGP-SIT-ZZ-DR-A-130101;
21-079-SGP-SIT-ZZ-DR-A-130103;
21-079-SGP-SIT-ZZ-DR-A-130200;
21-079-SGP-SIT-ZZ-DR-A-130300;
21-079-SGP-SIT-ZZ-DR-A-131000;
21-079-SGP-SIT-ZZ-DR-A-131001;
21-079-SGP-SIT-ZZ-DR-A-131002 (Rev. P1);
21-079-SGP-SIT-ZZ-DR-A-131100;
21-079-SGP-SIT-ZZ-DR-A-131101;
21-079-SGP-SIT-ZZ-DR-A-131103;
21-079-SGP-SIT-ZZ-DR-A-131200;
21-079-SGP-SIT-ZZ-DR-A-131201 (Rev. P1);
21-079-SGP-SIT-ZZ-DR-A-131300;
21-079-SGP-SIT-ZZ-DR-A-131301;
21-079-SGP-SIT-ZZ-DR-A-132100;
21-079-SGP-SIT-ZZ-DR-A-132101;
21-079-SGP-SIT-ZZ-DR-A-132102;
21-079-SGP-SIT-ZZ-DR-A-132300;

Thereafter the development shall be retained as such for as long as the development remains in existence.

REASON

To ensure the development complies with the provisions of the Hillingdon Local Plan Parts 1 and 2 (2012 and 2020) and the London Plan (2021).

- 3 The development hereby approved shall be implemented in accordance with the following supporting documents:

Air Quality Assessment Report (January 2022);

Virtus DC6 - Air Quality Assessment Report - Addendum (16-05-22);
 Virtus DC6 - Air Quality Assessment Report - Addendum #2 (29-11-22);
 Performance Data (26-02-20);
 Design and Access Statement (January 2022);
 External Plant Assessment (Ref: 07194/3/1/4) (01 February 2022);
 'As designed Be Green BRUKL Output Document' (May 2022);
 'As designed Be Lean BRUKL Output Document' (May 2022); and
 Flood Risk Assessment (10-04-2013).

Thereafter the development shall be maintained in accordance with these details for as long as the development remains in existence

REASON

To ensure the development complies with the provisions of the Hillingdon Local Plan Parts 1 and 2 (2012 and 2020) and the London Plan (2021).

- 4 Prior to the commencement of the development hereby approved, a Construction Logistics Plan (CLP) and a Construction Management Plan (CMP) shall be submitted to, and approved in writing by, the Local Planning Authority, to minimise impacts to the local highway network and to control noise, vibration and air pollutants generated as a result of the construction process. These documents shall be prepared in accordance with the London Freight Plan, 'The control of dust and emissions from construction and demolition' Supplementary Planning Guidance, BRE Pollution Control Guides 'Controlling particles and noise pollution from construction sites' and 'Controlling particles, vapour and noise pollution from construction sites'.

The CLP and CMP shall include details of (but shall not necessarily be limited to):

- (a) loading and unloading of plant and materials;
- (b) storage of plant and materials;
- (c) programme of works;
- (d) measures for traffic management and encouragement of sustainable modes of transport for workers, including prohibition of construction vehicles parking on the local highway network within the vicinity of the application site;
- (e) details of a vehicle booking system, ensuring construction deliveries are received outside peak hours;
- (f) provision of boundary hoarding and visibility zones of construction traffic routing;
- (g) hours of construction;
- (h) means to prevent deposition of mud on the highway;
- (i) likely noise levels to be generated from plant and construction works;
- (j) a dust risk assessment;
- (k) means to monitor and control dust, noise and vibrations, following the published guidance by The Institute of Air Quality Management (IAQM) on how to assess impacts of emissions of dust from demolition and construction sites;
- (l) use of a banksman (if applicable);
- (m) haulage routes;
- (n) a site plan identifying location of site entrance, exit, wheel washing, hard standing hoarding (distinguishing between solid hoarding and other barriers such as heras and monarflex sheeting), stock piles, dust suppression, location of water supplies and location of nearest neighbouring receptors;
- (o) bonfire policy;
- (p) confirmation that a mobile crusher will/won't be used on site and if so, a copy of the permit and intended dates of operation;
- (q) confirmation of all Non-Road Mobile Machinery (NRMM) to be used, or a statement confirming that NRMM will not be used. All Non-Road Mobile Machinery (NRMM) and plant to be used on site of net power between 37kW and 560 kW must be registered at <http://nrmm.london/>;

- (r) details of any closures of public routes and diversions, demonstrating how time spent closed to the public has been minimised;
- (s) the arrangement for monitoring and responding to complaints relating to demolition and construction;
- (t) details of cranes and other tall construction equipment (including the details of obstacle lighting);
- (u) all Heavy Goods Vehicles shall comply with the Direct Vision Standard. A rating of 3 stars (or more) will be required;
- (v) all deliveries to the site, particularly Heavy Goods Vehicles, shall be made using vehicles which have a Class VI mirror fitted in accordance with EU directive 2007/38/EC;
- (w) the precautions set out to eliminate or reduce noise levels where the operational risk levels illustrated within The Control of Noise at Work Regulations 2005 could be exceeded; and
- (x) the provision of secured restricted access as the sole means of entry to site for cyclists along with secured turnstile entrance for pedestrians.

The development hereby approved shall be implemented in accordance with the approved CLP and CMP.

REASON

To ensure that the proposed development does not interfere with the free flow of traffic and conditions of safety on the public highway, and to ensure the development process does not have a significant adverse impact on the amenities of nearby residential properties in accordance with Policies DMT 1, DMT 2 and DME1 14 of the Hillingdon Local Plan: Development Management Policies (2020) and Policies D14, SI 1, T4 and T7 of the London Plan (2021). Also, to ensure that construction work and construction equipment on the site and adjoining land does not obstruct air traffic movements or otherwise impede the effective operation of air traffic navigation transmitter/receiver systems, in accordance with Policy DMAV 1 of the Hillingdon Local Plan: Development Management Policies (2020).

- 5 Prior to the commencement of the development hereby approved, a surface water drainage scheme shall be submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall set out the current drainage arrangements including the discharge rates in a 1:100 (plus 40% allowance for climate change).

The scheme shall then demonstrate how the development will impact on the current arrangements.

The development shall demonstrate a reduction in a discharge rates from the site in a 1:100 year (plus 40% allowance for climate change) through the use of sustainable drainage systems in accordance with the drainage hierarchy set out in Policy SI 13 of the London Plan.

The scheme shall also demonstrate that the necessary energy infrastructure (i.e. generators and substations) are at least 300mm above the modelled 1:100 (plus 40% allowance for climate change) fluvial and/or surface water event, whichever is higher and that they are not to be impacted by any water run-off routes from the site.

The development must be carried out in accordance with the approved scheme.

REASON

To ensure the development does not increase the risk of flooding, onsite or offsite and that the essential energy infrastructure is not at risk of flooding in accordance with SI 12 and SI 13 of the London Plan (2021).

- 6 Prior to the commencement of the development hereby approved, details of Tree Protection Measures shall be submitted to, and approved in writing by, the Local Planning Authority. The details shall include:

A. A method statement outlining the sequence of development on the site including demolition, building works and tree protection measures.

B. Detailed drawings showing the position and type of fencing to protect the entire root areas/crown spread of trees, hedges and other vegetation to be retained shall be submitted to the Local Planning Authority for approval. No site clearance works or development shall be commenced until these drawings have been approved and the fencing has been erected in accordance with the details approved. Unless otherwise agreed in writing by the Local Planning Authority such fencing should be a minimum height of 1.5 metres.

Thereafter, the development shall be implemented in accordance with the approved details. The fencing shall be retained in position until development is completed.

The area within the approved protective fencing shall remain undisturbed during the course of the works and in particular in these areas:

- (i) There shall be no changes in ground levels;
- (ii) No materials or plant shall be stored;
- (iii) No buildings or temporary buildings shall be erected or stationed.
- (iv) No materials or waste shall be burnt; and.
- (v) No drain runs or other trenches shall be dug or otherwise created, without the prior written consent of the Local Planning Authority.

C. Where the arboricultural method statement recommends that the tree protection measures for a site will be monitored and supervised by an arboricultural consultant at key stages of the development, records of the site inspections / meetings shall be submitted to the Local Planning Authority.

REASON

To ensure that trees and other vegetation can and will be retained on site and not damaged during construction work and to ensure that the development conforms with Policy DMHB 14 of the Hillingdon Local Plan Part 2 (2020).

- 7 Prior to above ground works starting on-site, a landscape scheme shall be submitted to, and approved in writing by, the Local Planning Authority.

The scheme shall include: -

A. Details of Soft Landscaping

- A.a Planting plans (at not less than a scale of 1:100),
- A.b Written specification of planting and cultivation works to be undertaken,
- A.c Schedule of plants giving species, plant sizes, and proposed numbers/densities where appropriate

B. Details of Hard Landscaping

- B.a Refuse Storage
- B.b Cycle Storage
- B.c Means of enclosure/boundary treatments
- B.d Car Parking Layouts (including demonstration that 15% of all parking spaces are served by electrical charging points)
- B.e Hard Surfacing Materials
- B.f External Lighting
- B.g Other structures

C. Details of Landscape Maintenance

- C.a Landscape Maintenance Schedule for a minimum period of 5 years.

C.b Proposals for the replacement of any tree, shrub, or area of surfacing/seeding within the landscaping scheme which dies or in the opinion of the Local Planning Authority becomes seriously damaged or diseased.

D. Schedule for Implementation

Thereafter the development shall be carried out and maintained in full accordance with the approved details.

REASON

To ensure that the proposed development will preserve and enhance the visual amenities of the locality and provide adequate facilities in compliance with Policies DMHB 11, DMHB 14, DMEI 1 and DMT 6 of the Hillingdon Local Plan Part 2 (2020).

- 8 Prior to commencement of the development hereby approved, a detailed Energy Monitoring, Recording and Reporting Plan (EMRRP) shall be submitted to and approved in writing by the Local Planning Authority. The EMRRP shall accord with the requirements of the Policy SI2 of the London Plan (2021) and the GLA Energy Assessment Guidance (April 2020 or as amended) and demonstrate that the development will secure the 65% saving in CO₂ emissions from the regulated energy load in accordance with the Energy Strategy (27 September 2022).

The development must proceed in accordance with the approved reporting structure and where there is a failure to achieve the carbon savings as set out in the Energy Strategy, this failure (tCO₂) shall be treated as part of the overall carbon shortfall and shall result in a corresponding carbon offsetting cash in lieu contribution in accordance with the formula set out in the S106 agreement.

REASON

To ensure the development's onsite carbon savings from regulated energy demand is achieved in perpetuity (i.e. annually over 30 years) in accordance with Policy SI2 of the London Plan (2021).

- 9 Prior to above ground works starting on-site, details of all materials and external surfaces for the extensions and gantry grilles, shall be submitted to, and approved in writing by, the Local Planning Authority. Thereafter the development shall be constructed in accordance with the approved details and be retained as such.

REASON

To ensure that the development presents a satisfactory appearance in accordance with Policy DMHB 11 of the Hillingdon Local Plan Part 2 (2020).

- 10 Prior to the first use of the site as a data centre, full and final details shall be submitted to, and approved in writing by, the Local Planning Authority relating to the chiller plant and any associated noise control.

The plant shall be selected and installed, together with any associated screening, so as to minimise sound externally to a practicable minimum, such that the daytime (07:00-23:00) and night-time (23:00-07:00) cumulative rating levels, determined in accordance with BS 4142 at 1 m from any residential premises, are at least 10 dB below the relevant background sound levels. The relevant background sound levels shall be determined in accordance with BS 4142 and, as a minimum, from measurements over at least a 72-hour period, to include a weekend, at two locations in the vicinity of the nearest dwellings. The cumulative specific sound level(s) shall not exceed 55 dB (LAeq,1h) 1 m from any office-space window belonging to a neighbouring commercial premises.

REASON

To safeguard the amenity of the occupants of the neighbouring residential and commercial premises in accordance with Policy EM8 of the Hillingdon Local Plan: Part One (2012) and Policy D14 of the

London Plan (2021).

- 11 Prior to the first use of the site as a data centre, full and final details shall be submitted to, and approved in writing by, the Local Planning Authority relating to the standby generator plant and any associated noise control.

The plant shall be selected and installed, together with any associated screening, so as to minimise sound externally to a practicable minimum, such that the daytime (07:00-23:00) and night-time (23:00-07:00) cumulative rating levels, determined in accordance with BS 4142 at 1 m from any residential premises, are at least 5 dB below the relevant background sound levels to within a tolerance of 2 dB. The relevant background sound levels shall be determined in accordance with BS 4142 and, as a minimum, from measurements over at least a 72-hour period, to include a weekend, at two locations in the vicinity of the nearest dwellings.

REASON

To safeguard the amenity of the occupants of the neighbouring residential and commercial premises in accordance with Policy EM8 of the Hillingdon Local Plan: Part One (2012) and Policy D14 of the London Plan (2021).

- 12 Prior to the first use of the site as a data centre, a formal declaration by the site owner/occupier, supported by the Environment Agency permit and manufacturer report describing the testing and maintenance regime and annual hours of use of the backup generators shall be submitted to, and approved in writing by the Local Planning Authority. The number of testing and maintenance hours is not to exceed 27 hours per year, shall not be during school hours and the testing of the backup generators shall be phased so to avoid simultaneous testing of more than two units at a time.

Thereafter the development shall be implemented and operated in accordance with these details.

REASON

To reduce the impact on air quality within an Air Quality Management Area, in close proximity to sensitive receptors, in accordance with Policy EM8 of the Hillingdon Local Plan: Part 1 (2012), Policy DMEI 14 of the Hillingdon Local Plan: Part 2 (2020), the London Borough of Hillingdon Air Quality Action Plan 2019- 2023, and Policy SI 1 of the London Plan (2021).

- 13 Prior to the first use of the site as a data centre, an Emission Reduction and Management Plan shall be submitted to and approved in writing by the Local Planning Authority. This shall outline and commit to a programme for replacing the diesel backup units with cleaner/less polluting units, within clear timescales. This shall include (but not necessarily be limited to) the following:

- (i) A review of options for reducing NOx and PM2.5 emissions impacts for the National Grid power failures.
- (ii) A feasibility study including benefit analysis for potential upgrades of the backup generators or other changes to infrastructure (e.g. SCR), type of fuel, generator type and operational regimes on site that could reduce emissions over time. The cost benefit analysis shall include all impacts (monetised and non-monetised) on environment (built and natural) and human health.
- (iii) Use of the above information to propose appropriate changes in the generators type, selection of generators or other potential options for decreasing emissions over time; and
- (iv) Proposal of appropriate timescale for improvements.

Thereafter the development shall be implemented and operated in accordance with these details.

REASON

To reduce the impact on air quality within an Air Quality Management Area, in close proximity to sensitive receptors, in accordance with Policy EM8 of the Hillingdon Local Plan: Part 1 (2012), Policy DMEI 14 of the Hillingdon Local Plan: Part 2 (2020), the London Borough of Hillingdon Air Quality

Action Plan 2019- 2023, and Policy SI 1 of the London Plan (2021).

- 14 Prior to the first use of the site as a data centre, a schedule for the monitoring and testing of NOx and PM2.5 emissions of the proposed standby generators for the development, shall be submitted to, and approved in writing by, the Local Planning Authority.

The monitoring of emissions must include all backup generators and allow a frequency that will enable the calculation of total annual emissions per engine for each year stipulated in the Plan. This shall start from year 3 of the proposed development and run throughout the lifetime of the proposed generators in accordance with the agreed schedule.

REASON

To reduce the impact on air quality within an Air Quality Management Area, in close proximity to sensitive receptors, in accordance with Policy EM8 of the Hillingdon Local Plan: Part 1 (2012), Policy DMEI 14 of the Hillingdon Local Plan: Part 2 (2020), the London Borough of Hillingdon Air Quality Action Plan 2019- 2023, and Policy SI 1 of the London Plan (2021).

- 15 Prior to the first use of the site as a data centre, evidence that the backup generators are to be fitted with selective catalytic reduction (SCR) technology achieving at least 86% reduction in relation to the values reported in the air quality report submitted to support the planning application (V10 March 2022) supplemented by air quality addendum (Virtus DC6_AQA Addendum 2_Rev0_20221129, November 2022). Evidence is to include, but is not restricted to, a written warranty and supporting documentation by the equipment manufacturers that this NOx emission concentration is to be achieved, within 20 minutes of generator start-up.

Thereafter the development shall be implemented and operated in accordance with these details.

REASON

To reduce the impact on air quality within an Air Quality Management Area, in close proximity to sensitive receptors, in accordance with Policy EM8 of the Hillingdon Local Plan: Part 1 (2012), Policy DMEI 14 of the Hillingdon Local Plan: Part 2 (2020), the London Borough of Hillingdon Air Quality Action Plan 2019- 2023, and Policy SI 1 of the London Plan (2021).

- 16 One year after the first use of the site as a data centre, and in accordance with the Emission Reduction and Management Plan (Condition 13), details of the emergency backup generators shall be submitted to, and approved in writing by, the Local Planning Authority.

The details shall demonstrate that the backup generators are of the same emission levels as described in the Air Quality Report Addendum (Addendum 2_Rev0_20221129, November 2022) with emission rates per backup generator not exceeding 0.115191696 Tonnes of NOx/year and 0.0038764 PM2.5 tonnes per year. The maximum total annual emissions (tonnes/year) for oxides of nitrogen (NOx) and particulate matter of diameter 2.5 microns (PM2.5) as a result of the operation of the Development are not to be exceeded (total per year for 16 gen sets of 1.843 tonnes/year for oxides of nitrogen (NOx) and 0.062 for particulate matter of diameter 2.5 microns (PM2.5)) as agreed with the Council and as set out in the Emission Reduction Plan in year one (1) which shall be submitted to and approved by the Council.

REASON

To reduce the impact on air quality within an Air Quality Management Area, in close proximity to sensitive receptors, in accordance with Policy EM8 of the Hillingdon Local Plan: Part 1 (2012), Policy DMEI 14 of the Hillingdon Local Plan: Part 2 (2020), the London Borough of Hillingdon Air Quality Action Plan 2019- 2023, and Policy SI 1 of the London Plan (2021).

- 17 Testing of the standby generators shall occur no more than once per calendar month, between 08:00 and 18:00 hours Monday to Friday, and over a total period each month of no more than two hours.

REASON

To safeguard the amenity of the occupants of the neighbouring residential and commercial premises in accordance with Policy EM8 of the Hillingdon Local Plan: Part One (2012) and Policy D14 of the London Plan (2021).

- 18 The office floorspace hereby approved shall be used only for purposes ancillary to the use of the premises as a data centre (or other industrial use within the building), and shall not be used as a separate commercial unit or be provided with separate independent access.

REASON

To protect the industrial character and use of the building within a Strategic Industrial location in accordance with Policies E4 and E5 of the London Plan.

- 19 Trees, hedges and shrubs shown to be retained on the approved plan shall not be damaged, uprooted, felled, lopped or topped without the prior written consent of the Local Planning Authority. If any retained tree, hedge or shrub is removed or severely damaged during construction, or is found to be seriously diseased or dying another tree, hedge or shrub shall be planted at the same place or, if planting in the same place would leave the new tree, hedge or shrub susceptible to disease, then the planting should be in a position to be first agreed in writing with the Local Planning Authority and shall be of a size and species to be agreed in writing by the Local Planning Authority and shall be planted in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier. Where damage is less severe, a schedule of remedial works necessary to ameliorate the effect of damage by tree surgery, feeding or groundwork shall be agreed in writing with the Local Planning Authority. New planting should comply with BS 3936 (1992) 'Nursery Stock, Part 1, Specification for Trees and Shrubs'

Remedial work should be carried out to BS BS 3998:2010 'Tree work - Recommendations' and BS 4428 (1989) 'Code of Practice for General Landscape Operations (Excluding Hard Surfaces)'. The agreed work shall be completed in the first planting season following the completion of the development or the occupation of the buildings, whichever is the earlier.

REASON

To ensure that the trees and other vegetation continue to make a valuable contribution to the amenity of the area in accordance with policy DMHB 14 of the Hillingdon Local Plan Part 2 (2020) and to comply with Section 197 of the Town and Country Planning Act 1990.

- 20 The building(s) shall achieve 'Secured by Design' accreditation awarded by the Hillingdon Metropolitan Police Crime Prevention Design Adviser (CPDA) on behalf of the Association of Chief Police Officers (ACPO). No building shall be occupied until accreditation has been achieved.

REASON

In pursuance of the Council's duty under section 17 of the Crime and Disorder Act 1998 to consider crime and disorder implications in exercising its planning functions; to promote the well being of the area in pursuance of the Council's powers under section 2 of the Local Government Act 2000 to ensure the development provides a safe and secure environment in accordance with Hillingdon Local Plan Part 2 policy DMHB 15 and London Plan (2021) Policies D11 and D12.

- 21 Notwithstanding the provisions of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without modification), the buildings shall not be extended.

REASON

To enable the Local Planning Authority to assess all the implications of the development and to accord with Policy DMHB 11 of the Hillingdon Local Plan: Part 2 (2020).

- 22 Notwithstanding the provisions of Part 7, Schedule 2 of the Town and Country Planning (General Permitted Development) Order 2015 (or any order revoking and re-enacting that Order with or without

modification), no additional structural internal mezzanine floorspace that can be used for storage, excluding that intended to be used for a data centre, shall be created in excess of that area expressly authorised by this permission.

REASON

To enable the Local Planning Authority to assess all the implications of the development and to accord with Policy DMHB 11 of the Hillingdon Local Plan: Part 2 (2020).

INFORMATIVES

- 1 The decision to GRANT planning permission has been taken having regard to all relevant planning legislation, regulations, guidance, circulars and Council policies, including The Human Rights Act (1998) (HRA 1998) which makes it unlawful for the Council to act incompatibly with Convention rights, specifically Article 6 (right to a fair hearing); Article 8 (right to respect for private and family life); Article 1 of the First Protocol (protection of property) and Article 14 (prohibition of discrimination).
- 2 In dealing with the application the Council has implemented the requirement in the National Planning Policy Framework to work with the applicant in a positive and proactive way. We have made available detailed advice in the form of our statutory policies from Local Plan Part 1, Local Plan Part 2, Supplementary Planning Documents, Planning Briefs and other informal written guidance, as well as offering a full pre-application advice service, in order to ensure that the applicant has been given every opportunity to submit an application which is likely to be considered favourably.
- 3 The applicant is advised that this permission has been granted subject to a legal agreement under Section 106 of the Town and Country Planning Act 1990.
- 4 The applicant is advised that any works on this land will need to be undertaken following engagement with Network Rail's Asset Protection to determine the interface with Network Rail assets, buried or otherwise and by entering into a Basis Asset Protection Agreement, if required, with a minimum of three months notice before works start. Initially the outside party should contact assetprotectionwestern@networkrail.co.uk.

The decision to GRANT planning permission has been taken having regard to the policies and proposals in the Hillingdon Local Plan Part 1 (2012) and Part 2 (2020), including Supplementary Planning Guidance, and to all relevant material considerations, including The London Plan (2021).

Part 1 Policies

- PT1.BE1 (2012) Built Environment
- PT1.EM1 (2012) Climate Change Adaptation and Mitigation
- PT1.EM11 (2012) Sustainable Waste Management
- PT1.EM6 (2012) Flood Risk Management
- PT1.EM8 (2012) Land, Water, Air and Noise

Part 2 Policies

- DMAV 1 Safe Operation of Airports
- DMEI 14 Air Quality

DMHB 11	Design of New Development
DMHB 14	Trees and Landscaping
DMT 6	Vehicle Parking
LPP D11	(2021) Safety, security and resilience to emergency
LPP D14	(2021) Noise
LPP D5	(2021) Inclusive design
LPP E4	(2021) Land for industry, logistics and services to support London's economic function
LPP E5	(2021) Strategic Industrial Locations (SIL)
LPP G5	(2021) Urban greening
LPP SI1	(2021) Improving air quality
LPP SI12	(2021) Flood risk management
LPP SI2	(2021) Minimising greenhouse gas emissions
LPP SI3	(2021) Energy infrastructure
LPP SI7	(2021) Reducing waste and supporting the circular economy
LPP T1	(2021) Strategic approach to transport
LPP T4	(2021) Assessing and mitigating transport impacts
LPP T5	(2021) Cycling
LPP T6	(2021) Car parking
LPP T6.2	(2021) Office parking
LPP T7	(2021) Deliveries, servicing and construction
NPPF12	NPPF 2021 - Achieving well-designed places
NPPF14	NPPF 2021 - Meeting the challenge of climate change flooding
NPPF2	NPPF 2021 - Achieving sustainable development
NPPF4	NPPF 2021 - Decision-Making
NPPF6	NPPF 2021 - Building a strong, competitive economy
NPPF9	NPPF 2021 - Promoting sustainable transport

END OF SCHEDULE

Address:

Development Management
Directorate of Place
Hillingdon Council
3 North, Civic Centre, High Street, Uxbridge UB8 1UW
www.hillingdon.gov.uk

GRANT OF PLANNING PERMISSION

Application Ref: 18399/APP/2022/411

SCHEDULE OF PLANS

Virtus DC6 - Air Quality Assessment Report - Addendum (16-05-22) - received 07 Dec 2022
Virtus DC6 - Air Quality Assessment Report - Addendum #2 (29-11-22) - received 07 Dec 2022
Performance Data (26-02-20) - received 07 Dec 2022
21-079-SGP-SIT-ZZ-DR-A-131300 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131301 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-132100 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-132101 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-132102 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-132300 - received 14 Feb 2022
Air Quality Assessment Report (January 2022) - received 14 Feb 2022
Design and Access Statement (January 2022) - received 14 Feb 2022
Energy Strategy (Rev. T02) (18 May 2022) - received 20 May 2022
External Plant Assessment (Ref: 07194/3/1/4) (01 February 2022) - received 14 Feb 2022
'As designed Be Green BRUKL Output Document' (May 2022) - received 20 May 2022
'As designed Be Lean BRUKL Output Document' (May 2022) - received 20 May 2022
Flood Risk Assessment (10-04-2013) - received 20 May 2022
21-079-SGP-SIT-ZZ-DR-A-130000 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131201 (Rev. P1) - received 20 May 2022
21-079-SGP-SIT-ZZ-DR-A-130002 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-130100 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-130101 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-130103 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-130200 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-130300 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131000 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131001 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131002 (Rev. P1) - received 20 May 2022
21-079-SGP-SIT-ZZ-DR-A-131100 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131101 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131103 - received 14 Feb 2022
21-079-SGP-SIT-ZZ-DR-A-131200 - received 14 Feb 2022

21-079-SGP-SIT-ZZ-DR-A-130001 - received 14 Feb 2022

RIGHTS OF APPLICANTS AGGRIEVED BY DECISION OF LOCAL PLANNING AUTHORITY

TOWN AND COUNTRY PLANNING ACT 1990 (AS AMENDED)

Appeals to the Secretary of State

- If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development or to grant it subject to conditions, then you can appeal to the office of the First Secretary of State under Section 78 of the Town and Country Planning Act 1990.
- If you want to appeal, then you must do so within six months of the date of this notice using a form which you can get from the Planning Inspectorate at Customer Support Unit, Room 3/15 Eagle Wing, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (Tel. 0117 372 8428). Appeal forms can be downloaded from the Planning Inspectorate's website at www.planningportal.gov.uk.
- The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances, which excuse the delay in giving notice of appeal.
- The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.
- In Practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

Purchase Notices.

- If either the local planning authority or the office of the First Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by carrying out of any development which has been or would be permitted.
- In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with the provisions of Part VI of the Town and Country Planning Act 1990.

THE COMMON SEAL of the
**MAYOR AND BURGESSES OF THE
LONDON BOROUGH OF HILLINGDON**

was duly affixed to this Agreement
in the presence of:-

MEMBER OF

THE COUNCIL

Per Inallan

AUTHORISED OFFICER.....

RDys



EXECUTED AS A DEED by

VIRTUS LONDON 14 LIMITED acting by:-

DIRECTOR.....

Angela

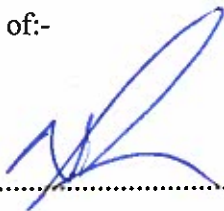
DIRECTOR/SECRETARY.....

N. Lu

EXECUTED AS A DEED by

PROLOGIS UK 79 LIMITED acting by

a director in the presence of:-

DIRECTOR.....

SIGNATURE OF
WITNESS.....

NAME OF WITNESS.....*MARY MOKES*

ADDRESS OF WITNESS.....
Prologis House.
Blythe Gate
Blythe Valley Park
Solihull, West Midlands
B90 8AH

