The Planning Inspectorate

Appeal Decision

Inquiry held on 21-24 November, 28-30 November and 6 December 2017
Site visits made on 30 November, 1 and 5 December 2017

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State

Decision date: 21 February 2018

Appeal Ref: APP/E5900/W/17/3171437
The Whitechapel Estate, Site between Varden Street and Ashfield Street, London E1 2JH

- 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 Cross Property Investment SARL and Cross Property Investment West SARL against the decision of the Council of the London Borough of Tower Hamlets.
- The application Ref PA/15/02959, dated 16 October 2015, was refused by notice dated 17 October 2016.
- The development proposed is described as demolition of all existing buildings and redevelopment to provide 12 buildings ranging from ground plus 2-23 storeys (a maximum 94m AOD height), comprising 343 residential dwellings (Class C3), 168 specialist accommodation units (Class C2), office floorspace (Class B1), flexible office and non-residential institution floorspace (Class B1/D1), retail floorspace (Class A1-A3), car parking, cycle parking, hard and soft landscaping and other associated works.

Decision

1. The appeal is allowed and planning permission is granted for demolition of all existing buildings and redevelopment to provide 12 buildings ranging from ground plus 2-23 storeys (a maximum 94m AOD height), comprising 343 residential dwellings (Class C3), 168 specialist accommodation units (Class C2), office floorspace (Class B1), flexible office and non-residential institution floorspace (Class B1/D1), retail floorspace (Class A1-A3), car parking, cycle parking, hard and soft landscaping and other associated works at The Whitechapel Estate, Site between Varden Street and Ashfield Street, London E1 2JH, in accordance with the terms of the application Ref PA/15/02959, dated 16 October 2015, subject to the conditions set out in the schedule attached to this decision.

Preliminary matters

2. The planning application form stated that the application was submitted by Londonewcastle on behalf of the two companies now listed as appellants in the heading above. It was confirmed at the Inquiry that Londonewcastle were acting only as development managers and were not party to the appeal.

3. The description of proposed development set out above follows the amended version agreed during consideration of the application and now included in the Statement of Common Ground ('SCG') agreed for the purposes of the appeal by the appellants and the Council.

4. It was agreed at the Inquiry that several basement level plans listed in the SCG were mutually inconsistent in the layout shown. Amended versions of five plans[1] were provided and the schedule of plans was revised. As the amendments involve a relatively minor adjustment to the internal arrangements at basement level only, I consider that no other parties' interests would be prejudiced by taking them into account in my decision.

5. Before the Inquiry closed, a Supplementary SCG[2] was submitted to address matters of affordable rents and housing land supply, which are considered later in this decision. The document also records agreement that the Draft London Plan, which was published during the Inquiry for the purposes of consultation, did not raise any new issues requiring additional evidence, and that very limited weight could be afforded to the new Draft, given the very early stage in its preparation. Having regard to the guidance of the National Planning Policy Framework ('NPPF') on the weight to be given to emerging plans[3], I accept that agreed position.

6. The second reason for refusal of the application concerned the lack of planning obligations to ensure mitigation of the impacts of the proposed development. The appeal was accompanied by a draft planning obligation in the form of an agreement under Section 106 of the Town and Country Planning Act 1990 (as amended) to be completed by the landowners, the mortgagee and the Council. Negotiations on the terms of necessary obligations continued during the course of the Inquiry, including the potential need for a unilateral undertaking to run in parallel with an agreement. By the close of the Inquiry, a single form of agreement satisfactory to all parties was finally settled, so that the Council's objection on this ground was now addressed. Additional time was allowed following the close of the Inquiry for the agreement to be signed and submitted as a properly executed deed[4]. The provisions of the agreement and their bearing on the appeal are considered later in this decision.

7. The proposal was deemed to be an Environmental Impact Assessment ('EIA') development under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 and the application was accompanied by an Environmental Statement ('ES') dated October 2015, prepared in accordance with those Regulations. The ES was supplemented during consideration of the application by Addendum volumes dated February 2016 and May 2016, and the Townscape, Heritage and Visual Impact Assessment ('THVIA') that makes up Volume 2 of the ES was supplemented in November 2015, February 2016 and May 2016. The full ES now comprises all of these additions and amendments.

8. Since the appeal was submitted, the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 came into force on 16 May 2017. Regulation 76 of the 2017 Regulations includes transitional arrangements for qualifying applications and appeals. I have considered the appeal in accordance with these Regulations and I am satisfied that it meets the requirements of the transitional arrangements. Therefore the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 will continue to apply to this appeal. I am satisfied that the proposal is EIA

[1] Plans no. 1264-A-BE-099A, 1264-A-BFG-099A, 1264-A-BHa-099A, 1264-A-BHb-099A, 1264-A-BI-099A
[2] ID 32
[3] NPPF paragraph 216
[4] ID 36

development and that the ES is adequate for the purposes of those Regulations. In reaching my decision I have had regard to the ES and all other relevant environmental information.

9. As well as an initial visit to familiarise myself with the site and surrounding area, I carried out a further unaccompanied visit to see the site after dark, as requested by the appellants. Following a formal inspection of the site and the local area accompanied by representatives of both main parties, I made further unaccompanied visits to see a number of other locations agreed by the parties.

Site context and appeal proposal

10. The appeal site is located just to the south of the Royal London Hospital ('RLH') in a wedge of the city contained by the main arteries of Whitechapel Road and Commercial Road. The site, amounting to some 1.27 hectares, has historically formed part of the RLH estate but is now in private ownership. The site comprises the majority of an urban block bounded to the west by Turner Street and to the east by the rear of houses fronting onto Cavell Street, to the north by Ashfield Street and to the south by Varden Street. Philpot Street, part of which has been planted over, forms a pedestrianised route through the centre of the block, and the site also includes a length of this former street space to the north of Ashfield Street.

11. Part of the block is occupied by buildings that date from the original layout of the tightly built grid of streets in the early nineteenth century. There are also some replacement buildings of the later nineteenth and early twentieth century. However, a large proportion of the block was redeveloped in the 1950s, 60s and 70s to provide facilities for the RLH, comprising staff and student accommodation, research laboratories and a school of nursing. The appeal proposal seeks to demolish and replace a number of buildings of this type.

12. The south-western corner of the block lies within the Myrdle Street Conservation Area ('CA') but only one 4-storey commercial building, No. 38 Turner Street, is included in the appeal site. The bulk of the London Hospital CA lies to the north of the block, but a very small component of the appeal site falls within it, comprising one of a short row of late nineteenth century houses, No.80 Ashfield Street, and the 2-storey former garage behind it, No.80a, which is now in office use. However, the CA also extends into the heart of the block to include Grade II listed terraces on the west side of Philpot Street and the north side of Walden Street, as well as a pair of listed houses at 46-48 Ashfield Street. The appeal site is drawn up to the front boundary of these houses. There are other listed buildings nearby on both sides of Newark Street, including the Grade II* former St Augustine's church, and several locally listed houses, some of them within the Ford Square Sidney Square CA, which directly abuts the appeal site to the east.

Appeal proposal

13. In the western half of the site, it is proposed to replace 6 blocks originally built as nurses' and staff accommodation and ranging in height from 5 to 7 storeys, and also No.38 Turner Street. In the eastern half of the site, the 10-storey Y-shaped John Harrison House, built as staff living quarters but now partly in office use, would be replaced, together with a 3-storey research laboratory

block fronting onto Ashfield Street, and No.80a. A large area that has been occupied by temporary cabins for RLH use would also be redeveloped.

14. The proposal would predominantly provide new housing, made up of a mix of 286 market units and 57 affordable units, together with 168 small specialist units available either to staff working in the NHS, the RLH and Queen Mary University of London ('QMUL') or for short-term occupation by patients and their families.

15. The proposed replacement buildings would comprise, on the western half of the site: Building A, a 4-storey over basement block fronting onto Ashfield Street and to contain 34 specialist studio apartments; Buildings B1 and B2, respectively of 9 and 7 storeys over basement facing Turner Street and to provide 40 market apartments and a ground floor retail/food unit flanking a new pedestrian link to Walden Street; Building C, to form a 5-storey over basement frontage to Varden Street and to contain 9 affordable duplex apartments and 74 specialist studio units; Building D1, a 10-storey over basement block at the corner of Philpot Street and Walden Street, to house 31 market apartments above a retail/food unit; Building D2 to form a row of 6 houses along the south side of Walden Street, of 3 storeys over basement in height.

16. On the eastern half of the site, John Harrison House would be replaced by Building E, a distinctive tower block rising to 20 storeys and providing 85 market apartments, a ground floor retail/food unit and gym and a basement swimming pool. Adjoining Building E, Building F would form a 5-storey over basement frontage to Varden Street, continuous with Building G, the rear part of which would rise to 9 storeys. These blocks would provide 50 affordable apartments. The commercial unit to the rear of houses on Ashfield Street would be replaced by the 4-storey over basement Building Ha, which would comprise 12 market apartments. Ashfield Street would be fronted by Building Hb, comprising 6 storeys of office/institutional space with a basement able to provide a lecture theatre or offices. The street frontage would be completed by the directly adjoining Building I, which would be a 24-storey over basement tower, comprising 60 specialist studio units on the lower floors and 112 market apartments above.

17. At the heart of the site, the space of Philpot Street would be laid out as a well-planted pedestrian route, to form a 'green spine' through the scheme. It is proposed that this treatment could also extend into areas fronting the two main buildings on the opposite side of Philpot Street not in the appellants' ownership, namely the School of Nursing with its distinctive 'pillbox' front and Floyer House student accommodation. Private gardens would be provided to the rear of buildings in the western half of the site and a residents' communal garden/play space enclosed by the buildings to the east.

18. The masterplan for the scheme and the buildings on the eastern half of the site together with Building A were designed by one firm of architects, and the other buildings on the western half were designed by a second firm.

Main Issues

19. Arising from the reasons for refusal of the planning application and the evidence presented to the Inquiry, I consider the main issues in the appeal to be:

- The quality of design of the appeal proposal and its effect on the character and appearance of the area and on the wider townscape;
- The effect on heritage assets and their settings;
- The effect on living conditions of neighbouring residents, having regard in particular to daylight and sunlight, outlook and privacy;
- The quality of living conditions for future residents of the development, having regard in particular to daylight and sunlight, overshadowing, outlook and privacy.

Reasons

Policy context

20. The development plan for the purposes of the appeal comprises the policies of the London Plan[5] ('LP') of March 2016, and the London Borough of Tower Hamlets Local Plan, made up of the Core Strategy ('CS') adopted in September 2010, and the Managing Development Document ('MDD') adopted in April 2013.

21. LP policies of particular relevance to the appeal include: Policy 7.5 on the quality of the public realm; Policy 7.6, on quality of architecture and design of buildings and places; Policy 7.7, which deals with the location and design of tall and large buildings; Policy 7.8 on the conservation of heritage assets; Policy 3.5 on the quality and design of housing developments. CS policies of greatest relevance include Policy SP10, on the protection of heritage assets and the promotion of good design and Policy SP12 on positive placemaking. Of the MDD policies, the most relevant are: Policy DM25 which seeks to protect and improve residential amenity; Policy DM26 on building heights; DM27 on the preservation and enhancement of heritage assets.

22. The City Fringe Opportunity Area Planning Framework ('OAPF') adopted in December 2015 forms Mayoral Planning Guidance that supplements LP and Local Plan polices in respect of the area around the northern and eastern fringes of the City of London, which are seen as a key focus for growth and regeneration. Whitechapel lies within the Core Growth Area and is identified as the main London component of the Med City initiative that seeks to promote a world-class life-sciences research cluster. The strategy is to avail of development opportunities that lie close to the area's existing medical and research institutions, and within easy reach of the soon to be opened Crossrail station. The appeal site is identified as one such opportunity, centred on a north-south 'linear park' to form the spine of a potential Med City campus extending from Whitechapel High Street through the original RLH building.

23. The OAPF draws upon the earlier Whitechapel Vision Masterplan ('WVM') which was adopted in December 2013 as a supplementary planning document to the Local Plan in anticipation of the arrival of Crossrail and the completion of the new RLH buildings. The WVM sets out a vision for the entire local area based on 6 'Key Place Transformations', one of which is the Med City Campus centred on the 'Green Spine'. The appeal site's contribution[6] is to include a high density

[5] The London Plan: The Spatial Development Strategy for London Consolidated with Alterations Since 2011, March 2016
[6] WVM p29

new residential quarter to accommodate family-sized especially affordable homes and specialist housing, with opportunities for office and research space associated with QMUL, other institutions and RLH, and with active ground floor uses addressing the Green Spine. The key urban design principles include a landmark building to the east of Philpot Street and the reopening of a key route along Walden Street.

Proposed uses

24. The Council's case at the Inquiry was couched in terms of disappointment that the appeal proposal would be largely residential in nature and would not be targeted at delivery of the life-sciences research aspiration of the OAPF and WVM. Whilst this concern was touched upon in the Council's officer report on the planning application, it was not an issue that was critical to the recommendation for refusal of planning permission. The report explained that the main non-residential component, Building Hb, would be likely to be used for RLH admin offices and that the lecture theatre might not be required, but that lack of take-up was beyond the applicants' control.

25. It is not disputed that the space proposed would be suitable to support research or education-based use, and representations on behalf of QMUL state that they had not ruled this out. The space would remain available for possible future use either by institutions or SMEs and any medical-related use in the interim, if implemented, can be seen as supporting the area's core function.

26. Different paragraphs of the OAPF and WVM place slightly differing emphasis on the relative primacy of Med City and residential uses over the wide area to the south of Whitechapel Road. However, the most detailed guidance on the appeal site, in the WVM, clearly leads on the provision of housing, with potential opportunities for offices and research space. The Council accepts that both guidance documents support residential development. The SCG records that, as set out in the Council's officer report, the principle of proposed land uses is consistent with the LP and Local Plan objectives for the site and with both the OAPF and the WVM. The nature and mix of proposed uses did not form part of the reasons for refusal and I find no reason to reach a different conclusion.

Design, character and appearance

27. The history of the area's development is well set out in the THVIA. The growth and expansion of the RLH in particular has resulted in an historic pattern of increasing intensification of development south from Whitechapel Road. The recently built main RLH building represents the culmination of this in terms of size and scale, with its massive form and height equivalent to 25 residential floors. The impact of this building has been transformational in physical terms as well as in confirming the importance of the location as a community facility, employment provider and centre of education and research. These are the factors, along with the arrival of Crossrail, that have inspired the area's inclusion in the OAPF and the ambitions of the WVM.

28. The changes that have taken place on the appeal site and its immediate surroundings over the past 50 or so years are part of the same pattern of intensification. The history of the site shows that there was already from early times evidence of buildings of more institutional character and scale than the nearby terraced housing, with the religious and school buildings on the east

side of Philpot Street being the most obvious example. The 1930s view[7] following the construction of Floyer House shows buildings of considerable presence on both sides of the street.

29. The buildings added from the 1950s onward form part of a continuous evolution of the site and its environs. There is no dispute that these are not buildings of high architectural quality. The formulaic design of the 5 to 7 storey blocks gives little impression of a considered response to the individual circumstances of each site and they have poor interface with the public realm. John Harrison House and the School of Nursing provide a more distinctive response but enclose space in a rather arbitrary way. Private external spaces are not amenable to active use and both they and the more public spaces appear to receive a relatively basic level of maintenance. I agree with the main parties that there should be no objection in principle to the loss of any of the health-related buildings proposed for removal, whose replacement provides an opportunity for considerable enhancement.

30. There also can be little objection to the principles set out for this task by the masterplan, based on repair of the urban block with well-defined active frontages defining permeable routes and open spaces, including creation of the Green Spine. Instead the Council's objection arises from the application of these principles to arrive at the proposed design, with the prime concern that perceived overdevelopment would be harmful to the character and appearance of the area.

Tall buildings: Policy and principle

31. The role of tall buildings is central to the Council's concern. It is now argued that four blocks (Buildings B1, D1, E and I) should fall within the definition of "tall buildings" envisaged by LP Policy 7.7 and MDD Policy DM26[8] as "…those that are substantially taller than their surroundings, (and) cause a significant change to the skyline …". At 9 storeys and 10 storeys respectively, Buildings B1 and D1 are of a different order to Buildings E and I, which in my judgement are those that would be commonly regarded as "tall buildings". Were John Harrison House to remain on the site, neither of the lower buildings would have been significantly taller than its surroundings. Nevertheless, as both buildings would marginally exceed the GLA notification limit, they can be taken as tall buildings for the purposes of policy compliance.

32. LP Policy 7.7 calls for a plan-led approach to the location of tall buildings, with Local Development Frameworks ('LDFs') to identify areas appropriate, sensitive or inappropriate for such structures. The Council's Local Plan has not yet classified locations in those specific terms, but MDD Policy DM26 states that building heights will be considered in accordance with the town centre hierarchy, ranging from Preferred Office Locations identified by the CS, through Other Preferred Locations, district centres, neighbourhood centres and areas outside of town centres. This goes some way towards meeting the LP stipulation.

33. There was much difference of opinion at the Inquiry over the appropriateness of a retail-led designation such as a district centre being the determining factor and whether the appeal site should be seen as lying within a less tightly

[7] THVIA Fig 3.30
[8] The definition is taken from former CABE/English Heritage 2007 Guidance on Tall Buildings

defined district centre suggested by Fig 11 of the WVM. I agree with the appellants that a literal interpretation of the two diagrams that would place the appeal site on an equal footing with an outer suburban area does not make sense. The area to the south of RLH has been positively identified for high density development around a major spine route and close to a main public transport hub. If the WVM vision is realised, the zone along the Green Spine would effectively be elevated in status.

34. In any event, LP Policy 7.7 goes on to state that tall buildings should generally be limited to sites in (amongst others) opportunity areas and town centres. As the appeal site lies within the City Fringe Opportunity Area, it therefore has in-principle development plan support as a suitable location. The Council also accepts that MDD Policy DM26 does not rule out proposals sites at the lower end of the hierarchy, so long as they can be shown to meet the LP and MDD criteria. Therefore, it is not a matter of rigidly interpreting Policy DM26 to conclude it is out of date, as suggested by the appellants, but of assessing the proposals against the relevant policy criteria.

35. Similarly, while the Council draws attention to the differently phrased guidance on building height used by the OAPF and the WVM for different sectors of the Whitechapel area, I find nothing in either document to suggest that tall buildings would not be appropriate in principle. In fact, the WVM guidance on landmark buildings[9] states that their importance may be reflected through high quality taller buildings, which in the context of the new RLH building provide an opportunity to positively contribute to the new built form and character of Whitechapel. By my reading this can apply both to the north and to the south of the RLH.

Buildings E and I

36. One of the core planning principles of national policy as set out in the NPPF is always to secure high quality design. The Council's case places emphasis on the LP requirement for buildings, including tall buildings, to be of the "highest quality architecture"[10]. This applies throughout the capital, so that it does not render the appeal site particularly special in this respect, as the Council now seem to suggest. However, the requirement is repeated by the WVM, and the need to address the many facets of quality design, as outlined by national and local policy, is highly relevant to the appeal.

37. The appellants have clearly embraced the issue of design quality in bringing forward the development proposal. The initial brief to a competitive selection of leading architects, which was provided to the Inquiry, calls for "a scheme of the highest architectural standards, setting a benchmark for the local environs"[11]. The ambition is endorsed by the award of the masterplan commission to a practice with a proven track record of design of major projects, and reinforced by the later addition of a second eminent firm to bring a different perspective to the western half of the site, and an award-winning landscape architect to lead on open space design.

38. The design rationale is set out in detail in the comprehensive Design and Access Statement ('DAS') and has been expanded upon in evidence. These

[9] WVM p14
[10] LP Policies 7.6B, echoed by Policy 7.7C
[11] ID 16 p2

confirm the designers' commitment to achieve the highest standards. Independent appraisals of design quality have been carried out at pre-application stage by the Greater London Authority ('GLA') and by the Council's own Whitechapel Design Review Panel, and again by the GLA through referral of the planning application. The design approach has been supported, with any initial reservations about the relative height of the two taller buildings effectively addressed by the reduction in height of Building I to below the height of the RLH. Significant weight can be attached to the GLA assessment that the amended proposals would accord with LP design policies.

39. In my view, both Building E and Building I represent accomplished solutions, in the abstract, to the design of a tall building. Building E would be highly distinctive in its stepped form, with its pattern of slightly distorted horizontal layers softened by greenery, and its striking white curved masonry elements. Building I would have a lightness of impact derived from its elegantly framed façade treatment and the vertical and horizontal disposition of the different components of the tower. The issues arise from the relationship between the two buildings and their relationship with their context, both existing and proposed.

40. There is no dispute that Building E would be suitably located for the landmark function sought by the WVM, and I consider that the building would amply fulfil that role, due to its distinctive treatment and its height. I accept that the 1930s buildings in the area identified by the architects do provide some precedent, albeit at a much more modest scale, for the effectiveness of a form and façade treatment in deliberate contrast to the predominant earthy brick tones and rectilinear forms of the surroundings. As proposed, the building would provide a memorable image to mark the southern limit of the pedestrianised Green Spine, which contrary to the Council's view I consider to be a point of some significance. While it is true that a lower building might fulfil a similar role, this does not in itself provide a strong argument against the proposed design, whose proportions benefit greatly from the height proposed.

41. Building I is described as a more contextual building, whose primary attribute would be to mediate the bulk of the RLH building. This role was said to have emerged as a result of design analysis. In the light of evidence that no studies were carried out to explore lower density solutions, it appears that the genesis of the tower might equally lie in the need to meet the brief for maximum housing density. But that does not negate the potential benefit of placing a more elegant building next to the south side of the RLH block. I acknowledge the Council's case that mediation of the RLH is not a requirement of the WVM or any other policy document. However, all parties recognise the dominant bulk of the RLH building, whose bland rather amorphous slab-like mass looms in views from the south. The building's civic status and ability to influence wayfinding do not adequately justify its visual dominance. The introduction of a further building with a slender vertical proportion would provide a beneficial foil to the hospital's mass.

42. I accept that from certain limited viewpoints to the south, especially from the junction of Philpot Street and Commercial Road[12], Building I and Building E would be seen close together, and appear due to perspective to be taller than the more distant RLH. But even in the static view (if less so in the modelled

[12] THVIA View 6

image) the eye would distinguish the very different character of the two towers and the relative closeness of Building E, which would, as shown by the submitted moving image study[13], become much more prominent as the viewer moved north. In other views and movement routes from the south, the separation and different form of the two buildings would be more readily distinguished, as well as the relationship with the height of the hospital.

43. In these views, the relatively neutral treatment of Building I would contrast successfully with the exuberance of Building E, emphasising its landmark role. Both together would provide a more interesting built form and skyline than currently offered by the RLH.

44. The Council raise particular concern about views from the east and west, fearing that the scale of the buildings would be unduly dominant in the typically low-rise surroundings of the site. I agree with the appellants that care needs to be given to reliance on static images. Thus, for example, in the modelled view east along Ashfield Street[14], Building I appears in isolation, but from the opposite footway only a few metres away, the RLH would be clearly visible and both buildings would be seen together. The same would be true of the modelled view along Newark Street[15]. People moving through the wider area would be well aware of the scale of the RLH. They would encounter occasional views of either or both of the proposed buildings, just as they do now of the RLH block, and also of more distant tall buildings.

45. When such views are looking from smaller-scale environments, such as some streets to the west of the site, the presence of taller buildings in the view would not necessarily be harmful to the experience of the more domestic-scaled setting. This is well illustrated by the modelled views east from Fordham Street[16] and at closer range from Varden Street[17]. The Council draws attention to the view east along Walden Street, where Buildings I and E would be seen above Buildings B1 and B2[18]. However, the domestic character of Walden Street has already been radically altered by the institutional scale medical school buildings along one side and by the bland 7 storey front of Clare Alexander House closing the view. The appeal proposal would represent change of a different type, but the perception of taller development in depth would have no more adverse effect on the best qualities of the original buildings. Similarly, in the view west from Sidney Square[19], the RLH already looms large above the domestic buildings. Buildings I and E would add further height in the view, but with an interesting counterpoint of form and materials, without compromising the appreciation of the different scale of the square.

46. At closer range, the base of Building E would be stepped out to respond to the scale of Varden Street, and the modelled images[20] suggest that the building would provide a generous interface with the public realm at street level. The building's longer flank would begin to re-enclose the space of Philpot Street

[13] Moving Study 3
[14] THVIA View 12
[15] THVIA View 13
[16] THVIA View 31
[17] THVIA View 8
[18] THVIA Views 10 and 11
[19] THVIA View 4
[20] THVIA View 22

along its traditional line but in a distinctive contrast from the buildings opposite which would not detract from their identity[21].

47. Closer range views of Building I along Ashfield Street in both directions are strongly influenced by the scale and treatment of the RLH Pathology building, which has already transformed the character of the street, as well as by the larger presence of the main RLH block. This would apply particularly to views from the north sides of Ford Square[22], where City towers can also be seen closing the vista. The building would undoubtedly be a very significant addition to the street scene, but would not appear unduly dominant, and its projecting base would respond to the scale of the new and existing buildings around it. The building would be tight up to the street line, in a very urban way, but it is not clear that anything would be served by setting the frontage back from the street face. The overhang would provide a reasonable semi-sheltered, albeit north-facing, space to foster a human scale at street level[23].

48. For these reasons, I do not accept the Council's contention that new development on the appeal site, in the context of planned transformational change, must reflect the original character of development in the area. I find that the two tallest buildings would not be harmful to pre-existing local character, which could co-exist with significantly taller development on the appeal site. I note that the Council appears to have come to the same view in permitting the proposed development at Whitechapel Central, which is another WVM "key place transformation" just to the east of the RLH.

Eastern site

49. The other buildings on the eastern half of the site would be significantly closer in scale to their immediate surroundings. Buildings F and G would form a continuous frontage with the base of Building E, and would redefine the street space of Varden Street at a scale commensurate with that of Silvester House opposite. The buildings' location at the back of a widened footway would not create an intense sense of enclosure, as feared by the Council. The set-back frontage of Silvester House provides a poor precedent. The taller rear element of Building G would not be unduly prominent in the street scene or in views from the east.

50. The Council accepts that Building Ha would have limited impact on character and appearance of the area because of its location within the perimeter block, where it would be in scale with adjoining buildings. Building Hb would maintain the existing street face on Ashfield Street, but at a scale that would acknowledge the RLH Pathology block opposite, while providing a transition from the existing terrace to the adjoining Building I[24].

Western site

51. At the other end of Ashfield Street, Building A would repair the gap in the street line formed by the existing building. The building would not attempt to replicate the delicacy of treatment of the listed pair at Nos. 46-48 but would restore their context as part of a terraced street, without dominating them in

[21] THVIA Views 16, 23
[22] THVIA View 2
[23] THVIA View 1
[24] THVIA View 1

scale, and would represent an enhancement over the existing situation. The precise choice of materials can be agreed by means of a condition.

52. The remaining buildings in the western half of the site form a group, of differing forms and heights but strongly linked by an overall consistency of style and materials. The treatment of this group would help to establish a strong identity for the site that would represent a contemporary interpretation of the local sense of place.

53. Buildings B1 and B2 would largely succeed in their intention to provide a gateway to the site from the west. As an asymmetrical pair, stepped in plan and in height, they would provide a strong intervention in the street scene that would serve to mark the location as an important node in the movement network. The Council's concerns about excessive height of Building B1 at the back of the footway would not be borne out, and the active use of its ground floor unit could animate the small public space in front of Building B2.

54. The WVM calls for Walden Street to be re-opened as a key route, but there is no suggestion that this needs to be for vehicular traffic. Therefore, although restoration of the full width of the original street would help to restore the local grid, this is not a prerequisite. The proposed response of a constricted pedestrian way between buildings, that would open out to the wider former street space within the scheme is in my view a legitimate solution, with traditional precedents in Inner London. The opening between buildings and the presence of the new development beyond would be clearly visible from the west[25] and would not be uninviting or potentially unsafe, being faced by active uses on each side.

55. Building C would echo Buildings F and G in restoring a street frontage to Varden Street, in scale with Mellish House and the flank of Porchester House. In contrast to the existing blank perimeter wall, the row of house entrances would animate the street frontage, with the overhanging upper floors helping to define the semi-private zone above the basement lightwells. The front elevation would be pulled back to align with the main gable of the adjoining Zoar Chapel, whose setting between larger neighbours would consequently be considerably improved, contrary to the Council's assessment[26].

56. The lower portion of Building D1 would play a valuable role in restoring the line of Philpot Street, helping to reinstate the continuity between the listed terraces and Porchester House and turning the corner into Walden Street, with animated ground floor use. Despite the irregularity of the pattern of window openings, the vertical proportions and earthy tones of the masonry panels would provide a reasonably contextual response to the measured rhythm of the existing facades. However, even this lower element of the building would be considerably taller than the existing and would tend to visually overpower its neighbours. The addition of a further 5 storeys in the upper part of the building would in my view compound the uncomfortable relationship, with the flank of the upper floors appearing very prominently above the listed terraces in views south along Philpot Street[27]. Rather than "hold" the listed terrace, as put by the appellants, the taller building would tend to dominate. Moreover, the

[25] THVIA Views 10 and 11
[26] THVIA View 8
[27] THVIA Views 17 and 19

orthogonal shape of the upper element, only slightly set back, would tend to counteract the good work done by the lower floors in following the street line.

57. The existence of former larger scale buildings in this location provides some justification for a somewhat taller building, as part of the historic pattern of intensification outlined earlier in this decision. But other justification would be less convincing, particularly given the proposed building's residential rather than public or institutional use. Building E would be more than capable of marking the southern extent of the site, without any need to form a gateway, and Building D1's contribution to mediating the bulk of the RLH would be limited. It was also accepted at the Inquiry that the intention of providing graded mediation of height from the hospital down to Building C and back up to Building B1 would not be readily appreciated from the ground. In my assessment the treatment of the western side of the street would be an unduly assertive intervention.

58. The height of Building D1 would also loom large in views west along Walden Street[28]. Although here it would serve to contrast with the intimate scale of the new street space, in the same way as Buildings B1 and B2 at the opposite end, its height and bulk would appear unduly dominant. However, the reinstatement of an unbroken frontage along the south side of the street would be highly beneficial, and the form of Building D2 as a terrace of houses entirely appropriate to the context. I do not endorse the Council's concerns over the treatment of the terrace, which would provide a striking contemporary interpretation of this form of housing as a counterpoint to the listed houses opposite. Although there would be a lack of ground floor openings other than entrance doors, the distinctive bay windows would provide good passive surveillance of the street.

59. The street would become more like a mews in character, but this would be consistent with the pattern of change over time and with the street's new role as a main pedestrian route. The slight narrowing of the street from its historic width would also be consistent with this new role. In that context, the introduction of some planting within the street space would provide a satisfactory link to the main Green Spine.

60. The delivery of the Green Spine as a major route from the town centre to the south and a focus for the Med City campus is one of the key objectives of the WVM vision. The appellants' proposal, based on acclaimed models of linear public spaces, would involve a lattice of paved paths interspersed by densely packed sustainable planting. It is clear that the proposal would need further refinement as the scheme progresses to accommodate evolving circumstances. In particular, the appellants' separate application for the renovation and restoration to full residential use of the listed terraces would include the recreation of small private gardens to the street[29]. If approved, this would help greatly to relive any tension between the sinuous nature of the main scheme and the formality of the Georgian-influenced terraces. There would also be possible inability to secure agreement with the RLH over the inclusion of the street space in its ownership to the front of Floyer House and the School of Nursing. Variations on the design to allow for these eventualities have not been shown, but on the basis of the evidence provided I have confidence that the

[28] THVIA View 20
[29] ID 18

treatment of the Philpot Street space could successfully meet the WVM aspirations for the Green Spine.

61. The landscape architecture evidence also gave confidence that the courtyard garden in the eastern side of the scheme could be an attractive well-used space.

Conclusion on design and character and appearance

62. The OAPF and the WVM set out a vision to transform the Whitechapel area. Delivery of the vision thus represents, in the terms of NPPF, an opportunity to "improve the character and quality of the area and the way it functions"[30]. The appeal proposal would deliver the site's contribution to the vision and cannot be classed as "poor design" for which permission should be refused.

63. The above analysis has necessarily taken each building and space in turn. But the appellants rightly stress the need to consider the scheme as a totality. Evidence for the Council has sought to suggest that this is an infill site, requiring a highly contextual approach to the sensitive insertion of new development. But the reality is that the vast majority of the site identified by the WVM is included, with the omission of the School of Nursing and the Wingate Building balanced by the inclusion of the lab block on Ashfield Street. The site does provide an opportunity for a comprehensive redevelopment.

64. For the reasons set out above, I find that, despite my reservations about the impact of Building D1, the design of the scheme as a whole would provide a considerable improvement over the site as it currently exists and would achieve the policy objective of transformational change while having sufficient regard to the character and appearance of the wider area.

65. For those reasons, I consider that the appeal proposal would comply with the building design criteria of LP Policies 7.6 and 7.7 and of CS Policy SP10 and MDD Policy DM26, with the placemaking objectives of LP Policies 7.4 and 7.5 and of CS Policy SP12 and MDD Policies DM 23 and DM24, and with the guidance of the OAPF and the WVM.

Heritage assets and their settings

Law and policy

66. In considering proposed development affecting a conservation area, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 imposes a duty to pay special attention to the desirability of preserving or enhancing the area's character or appearance. A similarly worded duty under Section 66 of the Act requires special regard to be had to the desirability of preserving a listed building or its setting. Successive court judgments have re-affirmed the importance of these duties. Their application of these judgments to the circumstances of an individual case means that "considerable and importance and weight" must be given to the desirability of preservation or enhancement in any balancing of the merits of a particular proposal.

67. National policy guidance set out in the NPPF[31] confirms the great weight in favour of the conservation of "designated heritage assets", such as conservation areas and listed buildings. The particular significance of any

[30] NPPF paragraph 64
[31] NPPF Chapter 12

heritage assets likely to be affected by a development proposal should be identified and assessed, including any contribution made by their setting. Any harm should require clear and convincing justification. A balanced judgement should be made on the effects on any "non-designated heritage assets", such as buildings on a local list.

68. The concept of the setting of a conservation area is not enshrined in the legislation and does not attract the weight of statutory protection. The NPPF advises that the setting of a heritage asset can contribute to its significance. Opportunities should be sought for new development within conservation areas and within the setting of heritage assets that would enhance or better reveal the significance of the heritage asset. Proposals that preserve those elements of the setting that make a positive contribution to or better reveal the significance of the asset should be treated favourably[32].

69. The Council now seeks to place emphasis on this last point, but the corollary to this (i.e. that proposals that do not take such opportunities should be treated unfavourably) is not explicitly stated by the NPPF, and this paragraph does not introduce any separate test over and above the main test of balancing harm against benefits.

70. As relatively recently adopted plans, the heritage policies of the LP and the MDD, in particular LP Policy 7.8 and MDD Policy DM27, are consistent with the NPPF approach, and embrace the concept of balancing harm against public benefits.

Significance of heritage assets: direct effects

71. The heritage assets likely to be affected by the proposal are comprehensively catalogued in the THVIA. I am satisfied that the submission meets the standard of description of heritage significance sought by the NPPF[33]. This was not contested by the Council at the time of the planning application, which is when any lack of analysis should have been rectified. The GLA also found the THVIA analysis adequate. The case now made that the appellants have somehow proceeded on a lack of understanding of significance is not borne out.

72. The appeal proposal would have direct effects on two CAs and on buried archaeology, as well as on the setting of a number of listed buildings and non-designated heritage assets.

Myrdle Street Conservation Area

73. The character of the Myrdle Street CA is of densely built housing from the late eighteenth century onwards fronting onto a tight grid of streets. The survival of so much of the original character of these streets gives the area its significance. The small portion of the CA to the east of Turner Street is not typical of the great majority of the area, being made up of apparently commercial buildings of the first half of the twentieth century rather than terraced housing, such as that directly opposite. These buildings therefore illustrate the evolution of the area over time with a greater variety of uses and larger scale.

[32] NPPF paragraph 137
[33] NPPF paragraph 128

74. No.38 lies at the edge of this group. The building is not of great architectural interest, in a stripped rather Art Deco style, but it is a work by a named architect, whose other local works have been taken by the appellants as precedents for the contrasting treatment of Block E. However, it is of historic interest by marking the fact that Walden Street previously continued through at this point as part of the grid.

75. Replacement of the building by a block (Building B2) that would not acknowledge the former corner would mean the loss of that historic interest. Whatever the design merit of the new building, its set back location would expose part of a blank gable to No.34 that would be uncharacteristic of that building. I consider that there would be some minor harm to the significance of the CA, ranked at the lower end of "less than substantial".

London Hospital Conservation Area

76. The London Hospital CA is predominantly made up of original and nineteenth century RLH buildings, together with some terraces of housing and the former church. Its significance lies in the historic importance of the RLH and its growth and expansion, together with the domestic environs it spawned. The Council's published CA Appraisal notes the need for re-assessment once the new RLH complex is complete. But as a result of development already carried out, the short terrace of houses on Ashfield Street, and No.80a behind them, have become rather isolated from any other historic fabric in the CA area.

77. The terrace retains its domestic character, but No.80a is atypical. It has minor historic interest as an example of commercial development of a backland plot. Its replacement by the low-rise domestic Building Ha would retain the dense pattern of development and would preserve the character of this part of the CA.

78. The new treatment of the Philpot Street space to form the Green Spine would also lie mainly within the CA. The street space here has previously been poorly landscaped in a nondescript fashion. The proposed new treatment would not directly reflect historic precedent, but would have the potential to form a contemporary set piece that would enhance this part of the CA.

Philpot Street burial grounds

79. The eastern half of the site includes two burial grounds associated with former chapels, and not used since the mid-nineteenth century. The Greater London Archaeological Advisory Service ('GLAAS') has advised that the burials should be regarded as a regionally significant undesignated heritage asset of archaeological interest. The appellants have explained why complete re-design to avoid disturbance of the remains would not be feasible, and the main parties have agreed that impacts could be mitigated by full recording of the area of interest, to be secured by a condition, which GLAAS had advised should be imposed in the event of permission being granted. In this instance, I am satisfied that the full investigation of the site, supplemented by local identification of the site's interest, would be the most appropriate outcome.

Significance of heritage assets: setting effects

80. I agree with the Council that the heritage assets whose settings would be most directly affected are the Grade II listed Philpot Street and Walden Street terraces and pair of houses at 46-48 Ashfield Street.

43-69 Philpot Street

81. The listed Philpot Street terraces are slightly later in date than their "Georgian" style suggests. They are of great historic interest as evidence of the original development of the hospital estate, with their scale and matching treatment giving a good indication of the status intended for Philpot Street compared to other more modest streets nearby. Their architectural interest derives mainly from their well-proportioned fronts, which combine with very finely detailed elements such as window openings and frames to produce a great delicacy of effect.

82. While the side streets form part of the terraces' setting, the most important context is provided by Philpot Street itself. The single list entry for the two terraces notes their symmetry to each side of Ashfield Street. To that extent, they have a degree of self-containment that does not rely on continuity with adjoining buildings, and the majority of their significance rests in the terraces themselves. There is also the historic evidence that the terrace form did not continue in matching form to the south of Walden Street. However, as street-front buildings, the terraces' significance does depend to a degree on the setting provided by the other frontage buildings.

83. At present the form of Philpot Street is eroded on the east side and particularly to the south of Walden Street. As outlined earlier, I find that Building E would start to repair the street enclosure and that its height and form would be so distinctive that it would be seen as a stand-alone feature that would not adversely affect the setting of the terraces diagonally opposite.

84. On the west side, despite the poor alignment of Dawson House, that block and the neighbouring Porchester House do maintain some continuity, allowing the listed terraces to be appreciated in a relatively unbroken and similarly scaled frontage. As outlined earlier, the proposed lower part of Building D1 would have some considerable merit in reinstating the original street line, but would itself appear uncomfortably taller and greater in scale than the listed terrace, while the value of the improved street enclosure would be compromised by the height and assertive form of the upper part of the building.

85. In my assessment, there would be an adverse effect on the setting of the listed terraces. Nevertheless, they would retain their form and integrity of treatment, and would continue to illustrate the character of the original street. The harm to their significance would be considerably less than substantial.

39-49 Walden Street

86. The Walden Street terrace forms a continuous group with the Philpot Street terraces. It shares their historic interest of illustrating the original pattern of development of the hospital estate, but in the form of a much more modest street. The terrace's architectural interest is also considerably less, without the same ambition to impress or quality of façade treatment. However, it remains a terrace of some quality that together with its rebuilt non-listed neighbours makes a strong street frontage.

87. The setting of the terrace has been adversely affected by the loss of its facing terrace on the south side of the street and the open aspect to the rear of the housing blocks, and also to the rear of Clare Alexander House closing off the

west end of the street. The immediate setting makes negligible contribution to the heritage significance of the terrace.

88. The insertion of a row of houses in Building D2 would reinstate the form of the street, albeit at a slightly closer distance. But this benefit would be diminished by the adverse impact of the height and dominance of Building D1.

89. Beyond Building D1, current views out of the street are enclosed by the bulk of John Harrison House. Buildings E and I would form taller and wider replacements in the view but would be clearly appreciated as contrasting elements, set away from the terrace. In the other direction, the opening of a gap between slightly taller buildings at the west end of the street to allow pedestrian access would also be an improvement over the existing situation. The character of the terrace would not be adversely affected by the more enclosed and proposed softer treatment of the street space.

90. Taken together, the changes to the setting of the terrace would not adversely affect its significance other than the intervention of Building D1, which would cause a minor degree of harm, considerably less than substantial.

46-48 Ashfield Street

91. As the surviving remainder of a terrace on Ashfield Street continuous with the Philpot Street group, this pair of houses also shares the historic interest of illustrating the original pattern of development of the area. Although much smaller in size, the houses also share some of the delicacy of treatment of their Philpot Street neighbours. The buildings' setting as part of a generally small-scale street scene contributes to their significance, but the immediate setting has been adversely affected by the removal of the adjoining houses, which has left No.48 with a crude blank gable, exposed to view by the setback frontage of Horace Evans House.

92. As earlier outlined, I consider that the siting of Building A to abut No.48, hiding the gable and recreating the street frontage, would be a significant benefit. I acknowledge that the new building would be taller than its neighbour and of a slightly larger, but still domestic, scale. Its lower window-wall ratio would contribute to a heavier appearance. But the Council's assessment of the building as "elephantine" in quality cannot be sustained. Subject to the final choice of materials and details, the building would make a successful addition to the street scene.

93. In the other direction, Building I would reinforce the change to the wider setting already made by the RLH. The changes to setting would not adversely affect the buildings' significance.

Other listed buildings

94. The effect on the setting of other listed buildings would be considerably less direct than on those considered above. In general the issue would be of taller buildings appearing above the roofscape or in sporadic views along east-west streets. As I have outlined, I agree with the appellants that the assessment of the impact of such views must be balanced by the appreciation of the presence of the RLH building, even if it is not prominent in a particular framed view. An example is the listed group at the west end of Newark Street, whose significance is reinforced by their immediate setting next to St Augustine's church, but not greatly by the wider setting to the east. The appearance above

the roofline of the rather elegant top of Building I, perceived as a foil to the RLH, would change the setting but without detracting from significance.

95. The evidence does not indicate any other listed building where an adverse impact on setting would have a harmful impact on heritage significance.

Conservation areas

96. The changes to the setting of the surrounding conservation areas would also principally relate to the appearance of the taller proposed buildings in relatively remote views.

97. The effect of these changed views on the main part of the Myrdle Street CA would not be harmful to its character, which would be robust enough to absorb the impact of tall buildings in views across the site from the west, just as it already has the effect of views of the RLH. The character of the CA has already adapted to changes within the CA itself such as the School of Medicine and Blizard Building, which would be key elements in the view of Buildings B1 and B2 along Walden Street. There would be no further harmful effect.

98. The Ford Square Sidney Square CA is centred on the two green spaces and the tight streets to the north. The significance of the area derives for the relatively intact original quality of the squares themselves and of the terraced housing surrounding and linking them. As outlined earlier, views out from the CA are already heavily influenced by the dominant form of the RLH block and by the large scale of some of the ancillary buildings. The inward-looking serenity of the two spaces would not be overcome by any adverse impact, and would not be harmed by the presence of further tall buildings in these views. The character of the CA would be preserved.

99. Many views of the appeal proposal from the main body of the London Hospital CA would be screened by the RLH complex, which would also be a prominent component of all other views. However, the harm to the setting of the Philpot Street terraces due to the relationship with Building D1 would also have a harmful impact on the significance of the CA, but at a level very much less than substantial.

Non-designated heritage assets

100. Non-designated heritage assets in the vicinity of the site mainly comprise some pockets of locally listed terraced housing, including 39-43 Ashfield Street facing Building A, and 67-81 Cavell Street, backing onto Building Ha. All of these buildings are located within a CA and no additional issues arise in respect of the effect of change to setting on their heritage significance, which would not be harmed. The same would be true of other buildings not formally included on the local list but identified by the SCG as being of heritage interest. These would include Zoar Chapel, whose setting would be improved by the alignment of proposed Building C, and 80-82a Ashfield Street, which would be adjoined by Building Hb on the street front and by Building Ha to the rear. These houses are of interest as a slightly later type of housing to most within the immediate area, and slightly larger in size. The lab building to be replaced makes little or no contribution to the houses' significance. Building Hb would be taller than the houses and would provide an intermediate step up to the height of Building I, but neither building would overwhelm its neighbours, whose significance would not be harmed.

Conclusion on heritage assets and their settings

101. The direct impact on the fabric of heritage assets would be very limited. I have concluded that the loss of 38 Turner Street would cause very minor harm to the significance of the Myrdle Street CA. The harm to the archaeological interest of the burial grounds could be appropriately mitigated by full investigation and recording.

102. The appellants have argued that the development of London as a world city has necessarily involved the successful co-existence of heritage assets with major re-development. Whitechapel is clearly an area of the city with strong heritage interest, which has been sustained despite considerable change to the east and west. The area itself is now identified by the Council for transformational change, with improved public transport. There will inevitably be a tension between the imperative for higher densities and the need to conserve heritage value. But in general, I consider that the heritage assets in and around the appeal site would be able to co-exist with the proposed development despite the very high degree of change that would result.

103. The national Planning Practice Guidance advises that substantial harm to significance is a high test, so that it may not arise in many cases[34]. Those cases would be likely to involve physical harm to fabric. In the present case, the Council have consistently argued that harm to significance of many of the affected heritage assets due to anticipated changes in setting would be at the top end of "less than substantial" (i.e. just below "substantial"). In my view this is based on a considerable overestimate of the contribution to the significance of those assets made by setting and the potential for harm from the appeal proposal.

104. In fact I have found only one other instance of less than substantial harm, in relation to the impact of Building D1 on the significance of the Philpot Street and Walden Street terraces. These instances of harm must be weighed against the anticipated public benefits, to which I return below.

Living conditions: neighbouring residents

105. Ensuring a good standard of amenity for all existing occupants of land and buildings is one of the core planning principles of the NPPF[35]. This is reflected in LP[36] and Local Plan[37] policies. The appeal site is bordered by residential uses along the eastern and southern edges of the urban block, on Cavell Street and Varden Street, but also within the block in the Walden Street terrace and along Philpot Street in some of the terraced houses and in the flats at Porchester House.

Daylight

106. The ES contains an analysis of daylight and sunlight impacts of the proposed development[38], which was updated during consideration of the planning application, and the Council's decision on the application was informed by an independent appraisal of that report. For the appeal, the appellants

[34] PPG paragraph 18a-017-20140306
[35] NPPF paragraph 17
[36] LP Policies 3.5, 7.6, 7.7
[37] CS Policies SP10, SP12; MDD Policy DM25
[38] ES Chapter 7: Daylight, Sunlight and Overshadowing, with addenda

commissioned a new full study, whose calculations of predicted effects were used in evidence to the Inquiry by both main parties.

107. It is agreed that the starting point in the assessment of the effect on residents' living conditions arising from daylight and sunlight should be the Building Research Establishment 2011 publication *Site layout planning for daylight and sunlight*: *A guide to good practice*, ('the BRE guide') whose author gave evidence at the Inquiry on behalf of the Council. Use of this methodology is demanded by the supporting text to MDD Policy DM25[39] and by the Mayor of London's Housing SPG of March 2016.

108. The BRE document offers guidance on generally acceptable standards of daylight and sunlight, but advises that numerical values are not to be rigidly applied and recognises the importance of the specific circumstances of each case. Inner city development is one of the examples where a different approach might be justified. This is specifically endorsed by the Housing SPG, which calls for guidelines to be applied sensitively to higher density developments, especially in (among others) opportunity areas and accessible locations, taking into account local circumstances, the need to optimise housing capacity, and the scope for the character and form of an area to change over time. This approach is clearly relevant to the appeal site. The area's identification for transformation through high density housing development indicates high scope for its form and character to change over the short and longer term. I agree with the appellants that blanket application of the BRE guide optimum standards, which are best achieved in relatively low-rise well spaced layouts, is not appropriate in this instance.

109. The SPG advises that the daylight impact on adjacent properties should be assessed drawing on "broadly comparable residential typologies within the area and of a similar nature across London"[40]. The comparable typologies put forward on behalf of the Council primarily comprise low-rise traditional street profiles, based on one location close to the site and notional reconstructions of streets bounding the site. The precise measurements used are challenged by the appellants, but more important is that the locations modelled do not cover areas of significant redevelopment. By contrast, the comparable areas analysed by the appellants include a range of examples comprising both traditional urban streets and recently permitted areas of significant development spread across Central London.

110. I acknowledge the Council's reservations about this exercise, including the subjective nature of the sites' selection, and their possible difference in context from that of the appeal site. There is also limited information on the extent to which any daylight harm might have been balanced by other benefits in the decision to grant permission for the recent schemes. An exception to this is the Whitechapel Central site, for which details of the Council's own decision making were provided[41]. I am also aware of the danger of a "race to the bottom", if subsequent decisions were to whittle away at desirable standards.

111. Nevertheless, in my view the comparable typologies analysed by the appellants come much closer to the intention of the SPG than the Council's reliance on locally found conditions, without any element of new development

[39] MDD paragraph 25.5
[40] SPG paragraph 1.3.46
[41] ID 5

at higher density. The studies are useful in providing a relatively broad brush view of residual daylight levels likely to be found on completion of development similar in scope to the appeal proposal, as well as of levels in valued historic settings.

112. The figures show that a proportion of residual Vertical Sky Component ('VSC') values in the mid-teens have been found acceptable in major developments across London. This echoes the Mayor's endorsement in the pre-SPG decision at Monmouth House, Islington[42] that VSC values in the mid-teens are acceptable in an inner urban environment. They also show a smaller proportion in the bands below 15%. Even if there were some discrepancy in the appellants' figures for this lower band at Whitechapel Central, which is disputed, the VSC outcomes for the appeal proposal would in general be very similar to those of the other major schemes. The appeal proposal would therefore appear to be in compliance with the LP as amplified by the SPG and as it is being interpreted by the Mayor. The GLA responses to the planning application did not raise any concern about neighbours' amenity.

113. I acknowledge that a focus on overall residual levels could risk losing sight of individual problem areas. It is accepted that light is only one factor in assessing overall levels of amenity, but I consider that the trade-off with other factors, such as access to public transport or green space, is likely to be of more relevance to an occupier of new development than to an existing neighbour whose long-enjoyed living conditions would be adversely affected by new buildings. However, I also consider that Inner London is an area where there should generally be a high expectation of development taking place. This is particularly so in the case of the appeal site, where the WVM and the OAPF have flagged the desirability of high density development. Existing residents would in my view be prepared for change and would not necessarily expect existing standards of daylight and sunlight to persist after development.

114. Turning to the buildings of greatest concern to the Council with regard to loss of daylight, the evidence shows that at the rear of 67-79 Cavell Street, where the use of the affected rooms is unknown, residual VSC levels would be in the mid-teens, other than in the house partly set behind the adjoining Wilton Court to the south, where the ground floor figure would be slightly lower. At Wilton Court itself, all living room windows and the smaller number of bedrooms would retain VSC levels in the mid- to high-teens, except to one ground floor living room close to an internal corner. I agree with the appellants, as the Council appear to have accepted at Whitechapel Central, that the SPG indicates that kitchens smaller than 13sqm should not be regarded as habitable rooms for this exercise.

115. That would also apply to the small kitchens set behind overhangs, whose windows would be the most affected at Silvester House and Mellish House. The first and third floors, which would mimic the effect without the overhang, would show residual VSC values virtually all in the mid-to upper-teens, with some above 20%.

116. At Porchester House, windows to some rear–facing small kitchens and bedrooms would experience significant reductions in VSC values owing to the tight enclosure by the flanks of Buildings C and D1. The BRE guide advises that light to bedrooms is less critical. In this case, as these would be small second

[42] ID 6

bedrooms and the living room and main bedroom of each flat would continue to receive reasonably good light, the harm to living conditions would not be unacceptable, and this was acknowledged in the officer report on the planning application.

117. Floyer House provides short-term accommodation, which I accept is less sensitive in daylight terms, and is in any event intended for redevelopment. But other than for a very few rooms, reasonable VSC values would be retained. The Walden Street terrace would no longer be faced by open space and its front rooms would experience significant reduction in light, but above basement level retained VSC values would be in the teens.

118. The VSC calculations are supplemented by No Sky Line ('NSL') and Average Daylight Factor ('ADF') data, which tend to confirm that light levels would remain adequate to provide acceptable living conditions. The Council acknowledge that losses to other buildings would be of lesser significance, and I have not found any, either alone or cumulatively, that would amount to an unacceptable impact.

Sunlight

119. With regard to sunlight, the number of existing rooms potentially affected would be considerably lower, owing to the need only to consider windows facing within 90 degrees of due south. The BRE guide also advises that effects on bedrooms and non-habitable rooms are of reduced significance.

120. The appellants submit that their analysis shows that only 11 of 349 rooms would raise potential concern, but 7 of these are basements. The parties agree that the most significant effects would be on the west-facing rear elevations of 67 Cavell Street, where windows are already partly screened, and living rooms at Wilton Court. The Council also draws attention to a room the rear of 43 Philpot Street.

121. As in the matter of daylight, the guidance on loss of annual and winter sunlight is not to be rigidly applied. Emphasis on the level of retained sunlight rather than degree of change would be justified. On balance, I accept the appellants' conclusion the proposal's overall effect on sunlight would not be significantly adverse.

Other impacts

122. The officer report on the planning application did not raise any detailed concerns about adverse effects on existing residents due to loss of outlook or privacy, but noted that adverse effects on daylight and sunlight could be an indicator of over-intensive development. However, the effects on outlook and privacy from Buildings B1, C, D1, E, F, G, Ha, Hb and I were examined and found acceptable.

123. I consider this to be a fair assessment and do not endorse the concerns newly raised in evidence to the Inquiry. In particular, I do not agree that Building D1 would unacceptably impact on outlook from the Walden Street houses and cause overlooking to the rear of these and houses on Ashfield Street and Philpot Street. Any residential gardens in this block are likely to be already overlooked and any marginal increase, including from Building B1, would still be in keeping with the dense inner urban context. The same would apply to any overlooking from Buildings E and I, which because of their height,

would potentially overlook a broad swathe of housing. Because of its projecting base and curved form, Building E would not appear over-dominant from Joscoyne House.

Conclusion on living conditions for neighbouring residents

124. LP Policy 7.6Bd requires new development to avoid causing "unacceptable harm" to amenity. MDD Policy DM 25 seeks to protect and where possible to enhance the amenity of surrounding residents, and to avoid "an unacceptable material deterioration" of lighting conditions in existing habitable rooms and "an unacceptable loss of privacy…or unreasonable overlooking…or sense of enclosure".

125. I conclude that the proposal would result in some significant individual reductions in daylight and sunlight levels, but that this is almost unavoidable in achieving the policy requirement for high density development in a confined urban setting. The new buildings would for the most part be comparable in height with the existing and would re-define traditional street frontages. Retained levels of daylight and sunlight would be adequate and comparable with existing and emerging urban conditions. The effects would appear very comparable with those recently allowed by the Council at Whitechapel Central. There would be minimal adverse losses of outlook and increases in overlooking. Taken as a whole, the proposal would not result in unacceptably harmful effects on living conditions and would comply with the development plan in this respect.

Living conditions: future residents

126. LP Policy 7.6Bf requires new development to provide high quality indoor and outdoor spaces. MDD Policy DM25 seeks to provide for amenity of future residents in similar terms to those for existing residents.

Daylight and sunlight

127. The need for flexibility in applying BRE guidelines applies equally to the consideration of light levels in the proposed accommodation and outdoor spaces. The Housing SPG requirement to consider broadly comparable residential typologies as well as local circumstances remains equally appropriate.

128. The appellants' analysis suggests that 77% of all proposed habitable rooms would comply with the relevant minimum standards of ADF recommended by BS 8206-2[43] and referenced in the BRE guide. This would rise to 84% if shared living/dining room/kitchens were rated at the lower standard of 1.5% ADF, which I consider a reasonable approach. I also accept that small studios for staff and students, particularly those for short-term occupation, can reasonably be tested against a lower standard. I note that overall NSL compliance would be 82%.

129. The Council draw particular attention to Building E, where balcony overhangs would result in reduced daylight to some bedrooms. I accept the appellants' case that this is an instance where a future resident would balance the amenity offered by the balcony with the lower daylight in the bedroom, and would not regard the accommodation as sub-standard.

[43] BS 8206 Lighting for buildings: Part 2. Code of practice for daylighting

130. The reduced levels in accessible flats in Buildings F and G would also appear to be due to windows being set behind recessed south-facing balconies. Again there would be a trade-off between the enhanced external space and privacy on the street front offered by the layout, against reduced daylight levels. Even though it should not be assumed that a wheelchair user would necessarily be housebound, I agree that this would be an adverse consequence of the location and treatment of the Varden Street frontage. However, I also recognise that in a context of tight urban streets the VSC necessary to achieve high ADF levels will in places be difficult to achieve. In Block C, it appears that accessible studios would have lower light than their neighbours because they would be at an internal corner, but they would benefit from being next to the lifts. The appellants' analysis shows that most units in Block C would comply fully if balconies were not provided, which is a design choice.

131. The Council's view is that the proportion of rooms meeting the BS standard would be unusually low in a new development, particularly one with tall buildings. However, the appellants' comparison data suggests that when measured against the other broadly comparable urban redevelopment schemes, the appeal proposal scores remarkably consistently. Whitechapel Central would be only marginally more compliant, with 84% of rooms meeting the ADF target, or 87% with the lower target for shared space. The Council's assessment is based on the undoubted experience of its expert adviser, but it has not produced evidence of comparable new high density development in a tight urban context where significantly better outcomes have been achieved.

132. With regard to sunlight provision in the proposed accommodation, the appellants conclude that 72% of the relevant rooms would meet the BS recommended target for Annual Probable Sunlight Hours ('APSH') and 91% the winter target. The Council's analysis focuses on the performance of main living rooms, to conclude that only 47% of these would meet both annual and winter targets, and a further 14% winter only. However, when account is taken that a further 33% would be north-facing, the percentages appear considerably more successful.

133. The role of recessed balconies appears to be a factor in the annual performance, with attention also being drawn to the need to avoid excess solar gain, which is not factored in to the BRE guide, while the balconies themselves could continue to receive direct sun even when the interiors did not.

134. It is accepted that sunlight to the open space on the site as a whole, which is largely made up of the former street spaces of Philpot Street and Walden Street would meet the BRE guideline for sun on the ground at March 21. The courtyard space surrounded by the buildings to the east of Philpot Street would be well shaded across its southern half on that date and during the colder months of the year. The Council's concern in evidence was based on an assumption about the location of play provision, but the space identified by the appellants for play (comprising the central lawn and a soft paved area with rock features) when tested would address that concern and would comprise both shaded and sunlit zones in accordance with good practice. The small communal spaces to the rear of Buildings B1 and B2 would also be quite well shaded but their use by residents would not be unduly compromised. In terms of residents' living conditions much would depend on the amenity offered by the successful layout and management of the Philpot Street space, but the

overall provision of sunlit space should be adequate. The comparison with the other permitted schemes would be quite consistent.

135. MDD Policy DM25 1c aims to ensure "adequate levels daylight and sunlight for new residential developments". The supporting text states that the Council "will seek to ensure that the design of new development optimises the levels of daylight and sunlight"[44]. This implies recognition that daylight and sunlight are matters to be balanced against other issues. Given the acceptance of very similar performance at Whitechapel Central, and the particular circumstances arising from design decisions, I consider that the appeal proposal would provide adequate levels of daylight and sunlight.

Other impacts

136. Only limited concerns in respect of outlook and overlooking were raised in the officer report. These have been supplemented in evidence to the Inquiry.

137. With regard to outlook, the Council raises specific concern about units within Building C. But the two rooms in each of the duplex units looking into a front basement lightwell would be secondary bedrooms, so that outlook would be less critical and the proposed arrangement would be adequate. Studios on upper floors would directly face the rear of Building D2, but not at an unacceptably close distance, and would have their privacy enhanced by the recessed balcony detail. The private gardens between these two buildings would be overlooked, from each building and by some windows to the rear of Building D1, but to a degree consistent with the urban context.

138. Windows dependent on outlook onto the space between Buildings B1 and B2 would again be second bedrooms, with other rooms also facing to front or rear. The impact of confined outlook would therefore be less critical. While the space would be tight, the outlook would not seem oppressive to occupiers. However, despite some staggering of window positions, there would quite direct overlooking, which might require reliance on blinds or curtains.

139. Ground floor units in Buildings F and G would adjoin the footway but this relationship is not uncommon in the surrounding area. Being raised above street level and with main living room windows set behind enclosed balconies would ensure that their privacy would not be compromised. Ground floor windows at Building A would also be raised to improve privacy.

140. The west elevation of Building Ha would be directly adjacent to the rear of Building Hb. Mutually disturbing overlooking could arise but could easily be avoided by use of curtains or blinds in either or both buildings, or by treatment of the rear windows of Building Hb. Access to the communal space from the upper units of this building would be rather circuitous, even if passage through Building I were allowed, but would not mean a serious failing in overall living conditions.

141. While there would be some instances of less than ideal relationships, taken as a whole the proposal would not result in unsatisfactory outlook, privacy or access to open space.

[44] MDD para 25.5

Conclusion on living conditions for future residents

142. For the reasons set out above, I conclude that the proposal, despite certain localised weaknesses, would result in a good overall standard of amenity for future residents, as advised by national policy, and would comply in this respect with LP Policy 7.6 and MDD Policy DM25.

Other matters

Housing land supply

143. The appellants' initial case had claimed support from a concern that the Council could not demonstrate a five-year supply of deliverable housing land, in accordance with NPPF policy requirement[45]. Particular criticism was made of the Council's reliance on a set of confidential sites seen as likely to come forward for development. The Supplementary SCG agreed at the Inquiry addresses the matter. While the appellants continued to question the Council's estimate of available land supply, it was agreed that this did not merit detailed interrogation at the Inquiry, but that substantial weight should be given to the provision of additional new housing, irrespective of the local land supply position. I accept the agreed position.

Affordable and specialist housing

144. The proposal would provide 343 units of conventional housing (class C3) to replace the existing 43 units (mainly originally nurses' accommodation) on the site. Of these 57 units would be for social rent. In addition, there would be 168 specialist units (class C2), with either short- or long-term occupancy restricted to RLH, QMUL and NHS-related staff and students and to patients and their families.

145. The affordable units would equate to 21% of habitable C3 rooms, against a policy target of 50%[46]. But if the specialist units are also taken into account, as the appellants suggest, the proportion of affordable units goes up to 44% of the total units or 33% by habitable room.

146. The re-provision of specialist housing is required by development plan policy[47] but the Council accept that the proposed accommodation would be of higher quality and space standards than the existing. The proposal's viability was assessed at application stage and was found to be the maximum viable provision. It has now been agreed in the Supplementary SCG that, notwithstanding the Council's endorsement of the Mayor of London's Affordable Housing and Viability SPG of August 2017, the appeal proposal represents a unique mix of affordable and specialist housing whose viability would be put at risk by any revision to predicted returns, which would require a full re-assessment. I accept that the proposal would comply with the development plan policies in respect of affordable and specialist housing provision.

Wingate Building

147. Objections to the planning application and to the appeal have been raised by QMUL as operators of the research facility in Wingate House at the junction of Ashfield Street and Turner Street, between Building A and Building B1.

[45] NPPF paragraph 47
[46] CS Policy SP02
[47] LP Policy 3.14; MDD Policy DM5

Although the representations made are not entirely consistent, the concerns fall broadly into 2 areas: firstly on the risk of complaints from future residents having the potential to impact on the operation of the facility, and secondly the potential for adverse impacts from construction activity.

148. The importance of the facility to the Med City initiative has been specifically endorsed by the GLA in its responses to the application, and I have no reason to doubt the value of the work carried on there and the need to minimise disruption to it. However, the balance of the evidence suggests that there would not be an undue risk of complaints due to noise, including any night-time emergency generator use, and that this matter could be addressed by a condition. This is an environment where the RLH is busy 24 hours per day and future tenants are to be advised of the likelihood of some disturbance. Similarly, on the issue of odours arising from research activity, the studies carried out suggest that there would not be significant risk of nuisance and complaint. Any patient privacy issues appear capable of being dealt with by normal management means.

149. With regard to construction impacts, the balance of the evidence suggests that the use of suitable techniques, for example in the placement of piles, could avoid harmful impacts. Provision can be made for full involvement of neighbours, particularly QMUL, in liaison procedures over construction environment management processes.

150. Therefore, I agree with the main parties that, subject to such arrangements and to necessary conditions, impact on the operation of the Wingate Building would not sustain a reason to reject the appeal proposal.

Planning obligation

151. Under the completed Section 106 agreement, the appellants and other landowners and mortgagee provide covenants in respect of the provision, disposal, tenure, occupancy and rent levels of the affordable housing, and the provision, occupancy and rent levels of the specialist housing. A review mechanism would allow any enhanced value to be captured and directed to improved affordable provision.

152. Further covenants would include: financial contributions amounting in total to £559,253, towards employment and skills training, carbon offset projects and monitoring of the obligation; payment of the Mayoral Community Infrastructure Levy ('CIL') and any outstanding contribution to Crossrail; ensuring the development would be car-free; support for local employment and purchasing initiatives; submission and implementation of a Travel Plan; the provision and maintenance of publicly accessible areas; provision of apprenticeships during the construction and occupation phases of the development targeted at local residents; compliance with a Code of Construction Practice; good neighbour provisions, comprising liaison with RLH and QMUL, and advice to occupiers on the noisy nature of medical uses; delivery of highway works. The Council covenants to apply financial contributions to the identified purposes or to return them.

153. The agreement is supported by Summary Justification Statement[48] which sets out the policy basis for each of the covenants and their compliance with

[48] ID 24

Regulations 122 and 123 of the CIL Regulations[49]. The obligation was amended during the course of the Inquiry to confirm that carbon offset projects would not comprise infrastructure within the meaning of the Planning Act 2008 and the Regulations, so that the issue of pooled contributions would not arise.

154. Subject to that clarification, I am satisfied that that each of the covenants would be fully supported by adopted LP or Local Plan policy as amplified by supplementary guidance, and would meet the tests for obligations set by Regulation 122(2) and echoed by the NPPF[50], in that they would be necessary to make the development acceptable in planning terms, would be directly related to the development, and would be fairly and reasonably related to it in scale and kind. The obligation can therefore be taken into account in a decision to allow the appeal proposal.

Balance of considerations

155. The Council acknowledges that the proposal would result in a number of public benefits, but questions the weight to be afforded to some of these.

156. In my view, the foremost public benefit would be that the proposal would deliver the transformational change to the appeal site sought by adopted planning policy and supplementary guidance, and would play a key role in the delivery of the WVM and OAPF vison for Whitechapel. The replacement of existing mediocre buildings and poorly presented public realm by carefully considered new buildings that would re-create street edges and define open spaces would be a significant benefit. In particular the establishment of a significant length of the Green Spine would be likely to provide a public space of high quality that would start to achieve the desired objective of a memorable green route through the heart of the WVM area, animated by well located retail/food uses. Access to the spine route would be reinforced by the re-opening of Walden Street as an attractive pedestrian link, would help to stitch the site back into the network of surrounding streets.

157. It is common ground that the provision of new housing should be given substantial weight. The provision of affordable housing to the maximum viable level can also be taken as a positive benefit. To this must be added the very significant benefit of the provision of specialist housing to an acknowledged improved standard. While the re-provision of specialist housing is a policy requirement, the key benefit here would be the placement of the accommodation within an affordable rent regime, which does not apply at present, and the limitation on occupancy to health-related staff and students. In particular, the ability for existing tenants to move onto the new regime would be extremely useful in maintaining continuity of experienced staff. The new specialist housing would thus make an important contribution to the achievement of Med City objectives for the area.

158. While the actual take-up has yet to be finalised, the provision of new space suitable for office or research use must also count as a potential Med City benefit.

159. Set against these would be the one instance where I have taken issue with design decisions, in respect of adverse effect on the setting of the Philpot Street and Walden Street terraces. Even allowing for the considerable weight to

[49] Community Infrastructure Levy Regulations 2010 (as amended)
[50] NPPF paragraph 204

be given to the desirability of preserving listed buildings and their settings, and the preservation and enhancement of conservation areas, I find that the public benefits of the proposal would significantly outweigh this heritage harm and the minor harm arising from the loss of 38 Turner Street and the Philpot Street burial grounds.

160. The appeal proposal would provide a striking intervention comprising a variety of memorable buildings and spaces. Taken as a whole, I consider for the reasons set out above that the proposal would comply with national and local policy, and that the balance lies in favour of its approval.

Conditions

161. A draft schedule of conditions was included with the Council's evidence and was subject to negotiation between the parties during the course of the Inquiry. By the close of the Inquiry broad agreement had been reached on a revised schedule, and further amendments were put forward during discussion at the event. Subject to some of those and some other amendments in the interests of greater precision and enforceability, I consider that the proposed conditions are reasonable and necessary and would comply with the tests set out in the NPPF[51].

162. In addition to the standard condition on commencement of development, a condition is needed to specify the approved plans in the interests of certainty and to confirm the approved form of development. Removal of permitted development rights is required to ensure that matters critical to the approval of the development are not subject to later uncontrolled change.

163. Approval of a phasing plan is necessary to ensure that development is carried out in a logical and timely manner in order to secure delivery of planned outputs and to minimise adverse effects on local residents and infrastructure. Minimisation of the same effects justifies approval and implementation of demolition and construction environmental management plans, both overarching and for each phase of work.

164. The protection of neighbours' living and working conditions also requires planning conditions to control hours of construction work, dust management, and piling techniques,

165. Conditions are needed to protect the living conditions of future residents with regard to noise including plant noise, treatment of cooking extract ventilation, availability of lifts, remediation of contamination, wind mitigation measures, implementation of security measures, approval of a delivery and servicing plan, and opening hours for the shop and food units. A mix of accessible units is necessary to provide for the needs of all sections of the community.

166. Approval of full details of drainage, including SuDs measures, is necessary to ensure the satisfactory drainage of the site and prevent flooding. Other conditions needed to maintain and improve the quality of the local environment include those on water supply impact, biodiversity enhancement and protection of nesting birds, air quality from mechanical extraction, waste management, and energy efficiency

[51] NPPF paragraph 206

167. In order to ensure the quality of the permitted development and protect the character and appearance of the area, conditions are needed on the approval of materials and building details, including shopfronts, on the design and storage of any cleaning gantries, and on final details of landscape design and of management of landscaped areas.

168. In order to mitigate harm to heritage significance, a condition is needed to secure a scheme of archaeological investigation and the subsequent recording of any excavation, with publication of results. The need to better reveal the significance of heritage assets justifies the provision of a memorial marking the the Philpot Street burial grounds.

169. It was agreed at the Inquiry that a draft condition on the size of commercial units should be replaced by one clarifying the permitted uses as A1, A2 or A3, in the interests of certainty, and also to require approval of any outdoor areas to be used ancillary to the use of the shop units, in order to protect residents' living conditions and ensure free flow of pedestrian traffic.

170. Conditions on the provision of cycle parking and the provision and restricted use of car parking are needed to promote sustainable modes of travel.

171. Details of crane usage are required in the interests of public safety, especially given the regular use of the helipad on the RLH roof.

Conclusion

172. For the reasons set out above, and having taken account of all matters raised in writing and at the Inquiry, together with the terms of the Section 106 agreement, I conclude that the appeal should be allowed and planning permission granted subject to the conditions set out in the attached schedule.

Brendan Lyons

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Reuben Taylor QC Hannah Gibbs of Counsel	Instructed by London Borough of Tower Hamlets

They called:

Paul Littlefair MA PhD CEng MCIBSE FSLL MILP	Building Research Establishment
Andrew Hargreaves BA(Hons) DipArch MSc RegArch IHBC	Conservation Officer London Borough of Tower Hamlets
Matthias Wunderlich Dipl-Ing (Arch) MSc MUDG	Partner Urban Initiatives Studio
Gareth Gwynne BA (Development Studies) RTPI Accredited Masters in Town Planning	Team Leader Development Management London Borough of Tower Hamlets

For discussion of obligations and conditions:

Fleur Francis	Planning Solicitor London Borough of Tower Hamlets

FOR THE APPELLANTS:

Russell Harris QC	Instructed by Hogan Lovells International LLP

He called:

Lee Polisano RIBA FAIA	President PLP Architecture
Lucy Tilley RIBA	Associate Director Adjaye Associates
Tom Stuart-Smith MLI	Principal Tom Stuart-Smith Ltd
Richard Coleman DipArch (Cant) RIBA RIAI	Principal Richard Coleman Citydesigner
Gordon Ingram MRICS	Partner GIA Chartered Surveyors
Chris Goddard BA(Hons) BPL MRTPI MRICS	Director DP9

For discussion of obligations and conditions:

Claire Dutch	Head of Planning Hogan Lovells International LLP
Hannah Quarterman	Senior Associate Hogan Lovells International LLP
Dean Jordan	DP9

DOCUMENTS SUBMITTED AT THE INQUIRY

1 Addendum to Dr Littlefair's Proof of Evidence
2 Opening Submissions on behalf of the Appellants
3 Opening Submissions on behalf of the Local Planning Authority
4 Report to Strategic Development Committee 24 August 2016: Application No.PA/15/01789 Whitechapel Central site (extract)
5 Report to Strategic Development Committee 24 August 2016: Application No.PA/15/01789 Whitechapel Central site (complete)
6 GLA Representation Hearing Report 8 February 2016 Application No. P2015/3136/FUL Monmouth House, Islington
7 RLH, Buildings E and I 'View Shed' Diagram
8 Note confirming Appellants
9 London Plan 2016 pp 93-97
10 Buildings E and I 'View Shed' Diagrams
11 M Wunderlich letter of instruction
12 Draft Planning Obligation (Track changes version)
13 Draft Planning Obligation (without changes)
14 Draft Schedule of Conditions
15 Draft Unilateral Undertaking
16 Invitation to Architects for Concept Scheme Proposals Sept 2013
17 R Coleman: Additional Townscape Photographs
18 Philpot Terrace application plans
19 Committee Report (extract): Application No. 2017/3847/P Camden Goods Yard, Chalk Farm Road, Camden
20 Inspector's Report (extract): Examination of Further Alterations to London Plan November 2014
21 Accompanied Site Visit: proposed route
22 Draft Planning Obligation (Track changes version)
23 Draft Planning Obligation (without changes)
24 Summary Justification of Heads of Terms of S106 Agreement
25 Schedule of Draft Planning Conditions (amended)
26 Draft Supplementary Statement of Common Ground
27 Draft Planning Obligation (Track changes version)
28 Draft Planning Obligation (without changes)
29 Examples of precast masonry
30 Closing Submissions on behalf of the Local Planning Authority
31 Amended Schedule of Plans
32 Signed Supplementary Statement of Common Ground
33 High Court Judgment: Barwood Strategic Land II LLP v East Staffordshire Borough Council and Secretary of State for Communities and Local Government [2017] EWCA Civ 893
34 Government Legal Department Skeleton Argument (extract)
35 Closing Submissions on behalf of the Appellants

DOCUMENT SUBMITTED AFTER THE INQUIRY

36 Certified copy of signed Section 106 Agreement dated 20 December 2017

Appeal Ref: APP/E5900/W/17/3171437
The Whitechapel Estate, Site between Varden Street and Ashfield Street, London E1 2JH

Schedule of conditions Nos. 1-34

1 Time Limit

The development hereby permitted shall begin not later than three years from the date of this decision.

2 Approved Plans

The development hereby permitted shall be carried out in accordance with the following approved plans:

1264-A-M-002, 1264-A-M-003, 1264-A-M-004, 1264-A-M-005, 1264-A-M-006;

1264-A-EX-100, 1264-A-EX-101, 1264-A-EX-102, 1264-A-EX-103, 1264-A-EX-104, 1264-A-EX-105, 1264-A-EX-106, 1264-A-EX-107, 1264-A-EX-108, 1264-A-EX-109, 1264-A-EX-110, 1264-A-EX-120 A, 1264-A-EX-200, 1264-A-EX-201, 1264-A-EX-202, 1264-A-EX-203;

1264-A-M-099 A, 1264-A-M-100, 1264-A-M-102-TYP, 1264-A-M-116-TYP, 1264-A-M-124, 243.07 E;

1264-A-M-200, 1264-A-M-201, 1264-A-M-202, 1264-A-M-203, 1264-A-M-204, 1264-A-M-205, 1264-A-M-206, 1264-A-M-250, 1264-A-M-251, 1264-A-M-252, 1264-A-M-253, 1264-A-M-260, 1264-A-M-261, 1264-A-M-263, 1264-A-M-264, 1264-A-M-266, 1264-A-M-268;

1264-A-BA-099 A, 1264-A-BA-100 B, 1264-A-BA-101 A, 1264-A-BA-103 A, 1264-A-BA-104, 1264-A-BA-200 A, 1264-A-BA-250, 1264-A-BA-300;

11-101 A, 11–102 A, 11–103 B, 11–104 A, 11–105 A, 11–106 A, 11–107 A, 11–108 A, 11-109 A, 11-110 A, 11–111, 11–112;

11-201 B, 11–202 A, 11–203 B, 11–204 B, 11–205 B ,11–206 A, 11–207 A, 11–208 A, 11–209 A, 11–210 A, 11–211 A, 11–212, 11–213;

12–101, 12–102, 12–103, 12–104, 12–105, 12–106, 12–107, 12–108, 12–109, 13-101 A, 13-102, 13-103, 13-104, 13-105 A, 13-106 A,13-107, 13-108, 13-109, 13-110, 13-111, 13-112, 13-201, 13-202;

1264-A-BE-099 A, 1264-A-BE-100 A, 1264-A-BE-101 B, 1264-A-BE-102, 1264-A-BE-103, 1264-A-BE-104 A, 1264-A-BE-105 A, 1264-A-BE-108, 1264-A-BE-113 A, 1264-A-BE-114 A, 1264-A-BE-115 A, 1264-A-BE-116 A, 1264-A- BE-118 A, 1264-A-BE-120, 1264-A-BE-200,

1264-A-BE-201, 1264-A-BE-250, 1264-A-BE-300, 1264-A-BE-301;

1264-A-BFG-099 A, 1264-A-BFG-100 B, 1264-A-BFG-101 B, 1264-A-BFG-102 B, 1264-A-BFG-103 B, 1264-A-BFG-104 B, 1264-A-BFG-105 B, 1264-A-BFG-106 B, 1264-A-BFG-107 B, 1264-A-BFG-108 A, 1264-A-BFG-109, 1264-A-BFG-200 A, 1264-A-BFG-250, 1264-A-BFG-300, 1264-A-BFG-301;

1264-A-BHa-099 A, 1264-A-BHa-100 A, 1264-A-BHa-101 A, 1264-A-BHa-102 A, 1264-A-BHa-104, 1264-A-BHa-110, 1264-A-BHa-111, 1264-A-BHa-112, 1264-A-BHa-200, 1264-A-BHa-250, 1264-A-BHa-300;

1264-A-BHb-099 A, 1264-A-BHb-100, 1264-A-BHb-101, 1264-A-BHb-105, 1264-A-BHb-106, 1264-A-BHb-200, 1264-A-BHb-250, 1264-A-BHb-300;

1264-A-BI-099 A, 1264-A-BI-100 A, 1264-A-BI-101, 1264-A-BI-104, 1264-A-BI-105 A, 1264-A-BI-106 A, 1264-A-BI-107 A, 1264-A-BI-109 A, 1264-A-BI-118 A, 1264-A-BI-119 A, 1264-A-BI-120 A, 1264-A-BI-122 A, 1264-A-BI-123 A, 1264-A-BI-124, 1264-A-BI-200 A, 1264-A-BI-201, 1264-A-BI-300, 1264-A-BI-301, 1264-A-BI-302.

3. Permitted Development

a) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), no fences, barriers, gates or other means of enclosure other than those shown on the approved plans shall be erected within the site following the practical completion of the development.

b) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), no painting of finished brickwork or other non-rendered facades other than any shown on the approved plans shall take place within the site.

4 Phasing Plan

Prior to implementation of the development hereby permitted, a construction and demolition Phasing Plan for the development shall be submitted to and approved in writing by the local planning authority. The Phasing Plan shall set out the timescale for the commencement and practical completion of each phase of the development, including both demolition and construction. The Phasing Plan shall be accompanied by a statement detailing how the phasing aligns with that assessed in the Environmental Statement. Should the phasing plan not accord with that assessed within the Environmental Statement, the statement must demonstrate that this change will not alter the effects (on internal and external receptors to the site) identified within the Environmental Statement.

The demolition and construction shall be carried out in accordance with the phases and timescales identified in the approved Phasing Plan.

5 Specialist Health Accommodation Provision

During all phases of demolition and construction not less than fifty (50) specialist accommodation (C2) units shall be available for occupation to those persons eligible ('eligible persons' as defined in the accompanying s106 agreement).

` Prior to occupation of the final phase of development, the 168 specialist accommodation units hereby approved shall be available for occupation to those persons eligible ('eligible persons' as defined in the accompanying s106 agreement).

6 Noise Standards for New Residential Units

a) All of the approved residential units shall be constructed and fitted out to ensure that:
i. They accord with BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings';
ii. Structure-borne noise does not exceed LAmax 35 dB;
iii. Exposure to vibration is no higher than of "low probability of adverse comment" in accordance with BS 6472 'Evaluation of Human Exposure to Vibration in Buildings';
iv. At any junction between residential and non-residential uses, the internal noise insulation level is no less than 55DnT,w + Ctr dB; and
v. Internal Ambient Noise Levels for new residential dwellings meets 35 dB LAeq,16 hour, between hours 07:00 - 23:00 and within bedrooms meets 30 dB LAeq, 8 hour between hours 23:00 - 07:00.

b) None of the residential units within each phase of development approved pursuant to condition 4 shall be occupied until a post-completion verification report, including acoustic test results, for that phase has first been submitted to and approved in writing by the Localplanning authority to confirm that the above minimum standards have been achieved.

7 Plant Noise levels

Before any mechanical services plant, within each phase of development, approved pursuant to condition 4, including, but not limited to, heating, power supply, ventilation and air conditioning (HVAC), plant to which the application refers, is used in the operational phase of the development, a scheme shall be submitted to and approved in writing by the Localplanning authority, for the phase, which demonstrates that the following noise design requirements can be complied with. The approved requirements shall thereafter be retained as approved.

a) The cumulative measured or calculated rating level of noise emitted from the mechanical services plant shall be lower than the pre-

development background noise level by 5dB(A) at all times the plant is in operation.

The measured or calculated noise levels shall be determined at the boundary of the nearest ground floor noise sensitive premises or 1.0m from the facade of the nearest first floor (or higher) noise sensitive premises, and in accordance to the latest BS 4142 (currently 2014). An alternative position for assessment/measurement may be used to allow ease of access, this must be shown on a map and noise propagation calculations detailed to show how the design criteria are achieved.

b) The plant shall be isolated so as to ensure that vibration amplitudes which cause re-radiated noise do not exceed the limits detailed in table 4 detailed in section 7.7.2 of BS 8233:2014 'Guidance on sound insulation and noise reduction for buildings'.

c) A compliance acoustic assessment (applying BS 4142:2014 'Methods for rating and assessing industrial and commercial sound-methodology') shall be undertaken within 2 weeks of mechanical services commissioning, in order to demonstrate that the condition has been achieved. The results of the assessment shall be submitted to and approved in writing by the local planning authority.

8 Accessible Residential and Lifts

a) Prior to occupation of the relevant units within each phase of development approved pursuant to condition 4, details for that phase shall be submitted to and approved in writing by the local planning authority demonstrating that:

i) 90% of the Class C3 and 90% of the Class C2 residential units hereby permitted have been designed and constructed in accordance with Optional Requirement M4 (2) of Part M of the Building Regulations;

ii) 10% of the Class C3 residential units within the market sales have been designed and constructed to meet the requirements of M4 (3)(2)(a) (adaptable) of the Building Regulations;

iii) 10% of the Class C3 rented affordable housing units and 10% the Class C2 specialist units specified for longer term letting and short term letting have been designed and constructed to meet the optional requirement of M4 (3) (2) (b) (wheelchair accessible), of the Building Regulations.

b) All lifts serving the residential uses hereby permitted shall be installed as shown on the approved plans in accordance with a written scheme that has first been submitted to and approved in writing by the local planning authority. All lifts approved shall be operational prior to the first occupation of the respective residential access cores. All lifts approved shall be retained and maintained in an operational condition for the lifetime of the development.

9 Air Extraction and Filtration for Commercial Uses

None of the approved non-residential uses within each phase of development approved pursuant to condition 4, shall commence until a scheme for the extraction and treatment of fumes and odours generated from cooking or any other activity associated with any of those non-residential units, for that phase, has been submitted to and approved in writing by the local planning authority.

Any equipment, plant or process approved pursuant to such details shall be installed prior to the first use of the premises and shall be operated and retained in accordance with the approved details and operated in accordance with manufacturer's instructions.

The scheme shall include a risk assessment and odour control measures which comply with the minimum requirements the Department of Framing & Rural Affairs: 'Control of Odour and Noise from Commercial Kitchen Systems' 2004.

10 Dust Management

No development shall commence within each phase of development approved pursuant to condition 4 until a dust management plan for that phase has been submitted to and approved in writing by the local planning authority. The dust management plan shall include the following details:

a. Demonstration of compliance with the guidance found in the control of dust and emissions from construction and demolition Best Practice produced by the Greater London Authority;

b. A risk assessment of dust generation shall be prepared for each phase of the development. The assessment and identified controls must include the principles of prevention, suppression and containment and follow the format detailed in the guidance above. The outcome of the assessment shall be fully implemented for the duration of the construction and demolition phases of the proposed development and include dust monitoring where appropriate;

c. Where the outcome of the risk assessment indicates that monitoring is necessary, a monitoring protocol including information on monitoring locations, frequency of data collection and how the data will be reported to the local planning authority;

d. Details of dust generating operations and the subsequent management and mitigation of dust demonstrating full best practicable means compliance and covering construction activities, materials storage, on and off site haul routes, operational control, demolition, and exhaust emissions; and

e. where a breach of the dust trigger level may occur a response procedure shall be detailed including measures to prevent repeat incidence.

11 Construction Hours

1. The building operations required to carry out the development hereby permitted shall only be carried out within the following times and not at all on Sundays and Bank Holidays:-

   - 8.00 am to 6.00 pm Monday to Friday
   - 8.00 am to 1.00 pm on Saturdays

2. Any hammer-driven piling or impact breaking out of materials carried out in pursuance of this permission shall be carried out only between the hours of 10.00 am to 4.00 pm Mondays to Fridays and shall not take place at any time on Saturdays, Sundays and Bank Holidays.

12 Archaeology

No demolition or development within each phase of development approved pursuant to condition 4 shall commence until a written scheme of investigation (WSI) for that phase has been submitted to and approved in writing by the local planning authority. For land that is included within the WSI, no demolition or development shall take place other than in accordance with the approved WSI, which shall include:

A) relevant historical documentary research, a statement of significance and research objectives;

B) the programme and methodology of site investigation, excavation, recording and the nomination of a competent person(s) or organisation to undertake the approved works;

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

13 Memorial of Burial Ground

Details of a memorial of the burial ground (in consultation with the relevant faith groups) shall be submitted to and approved in writing by the local planning authority prior to the demolition of 71 Varden Street. The approved memorial shall be erected in place prior to occupation of the final phase of development hereby permitted.

14 Demolition and Construction Environmental Management Plan

a) No demolition works shall take place until an overarching Demolition Environmental Management and Logistics Plan for the site has been submitted to and approved in writing by the local planning authority.

b) No construction works shall take place until an overarching Construction Environmental Management and Logistics Plan for the site has been submitted to and approved in writing by the local

planning authority.

c) No demolition works within each phase of development approved pursuant to condition 4 shall take place until a Demolition Environmental Management and Logistics Plan, for that phase, has been submitted to and approved in writing by the local planning authority.

d) No construction works within each phase of development approved pursuant to condition 4 (excluding demolition) shall take place until a Construction Environmental Management and Logistics Plan for that phase has been submitted to and approved in writing by the local planning authority.

Each demolition and construction environmental management plan identified in parts a), b), c) and d) above shall provide details of site-wide measures or works consistent with the relevant phase of development approved pursuant to condition 4. The plans shall include details of:

i. the site manager, including contact details (phone, email, postal address) and the location of a large notice board on the site that clearly identifies these details of the site manager and a "Considerate Constructors" contact telephone number;
ii. the parking of vehicles of site operatives and visitors;
iii. the erection and maintenance of security and acoustic mitigation hoardings;
iv. wheel washing facilities;
v. a scheme for recycling/disposing of waste resulting from demolition and construction works;
vi. any means, such as a restriction on the size of construction vehicles and machinery accessing the site, required to ensure that no damage occurs to adjacent highways throughout the construction period;
vii. any means of protection of services such as pipes and water mains within the adjacent highways;
viii. measures to maintain the site in a tidy condition in terms of disposal/storage of rubbish, storage, loading and unloading of building plants and materials and similar demolition or construction activities;
ix. handling and storage of fuel and chemicals in designated areas containing spill kits and procedures for the handling and storage of potential contaminants and associated clean-up procedures.
x. measures to ensure that pedestrian access past the site is safe and not obstructed during construction works;
xi. location of workers' toilet facilities;
xii. ingress and egress to and from the site for vehicles during site works period;
xiii. proposed numbers and timing of truck movements throughout the day and the proposed routes;
xiv. monitoring and managing construction traffic to ensure that vehicles do not block the public highway on entry and exiting the site

xv. measures to protect soils and controlled waters from contamination during demolition and construction including consideration will be given to the appropriate use of bunding and temporary settlement ponds to ensure the protection of water quality in the surrounding water courses
xvi. detail removal of soil, dust, debris and demolition and construction materials from public roads or places;
xvii. measures to safeguard subsurface utilities infrastructure; and
xviii. measures to maximise the use of waterborne transport during the construction of the development (unless a feasibility study submitted to and approved in writing by the local planning authority demonstrates that use of waterborne transport is not feasible);
xix. measures to ensure that all non-road mobile machinery meets the minimum emission requirements set out in the Mayor of London's 'Control of Dust and Emissions during Construction and Demolition' Supplementary Planning Guidance 2014.
xx. Information on how the demolition/construction mitigation measures relied upon in the Environmental Statement as being included in the DEMP/CEMP, have been incorporated.

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

15 Land Contamination

No development within each phase of development approved pursuant to condition 4 shall commence until a ground contamination and remediation study for that phase has been submitted to and approved in writing by the local planning authority.

The study shall identify the extent of the contamination and the measures to be taken to avoid risk to the public, buildings and environment when the site is developed and shall include the following details:

i. A phasing plan identifying all areas of investigation and remediation to be undertaken in each phase of the development;

ii. A 'desk study report' documenting the history of the relevant phase of the site;

iii. A proposal to undertake an intrusive investigation at the site if recommended by the findings of the desk study;

iv. A 'site investigation report' to investigate and identify potential contamination in each phase if intrusive investigation is carried out;

v. A risk assessment for each phase;

vi. Proposals for any necessary remedial works to contain treat or remove any contamination in each phase;

vii. A verification report confirming that all necessary remediation works for each phase have been satisfactorily completed.

The development must be carried out in accordance with the remediation works approved by the local planning authority as part of the scheme for that phase.

16 Water Supply Impact Study

No works, except for works of demolition, archaeological and ground investigations, within each phase of development approved pursuant to condition 4 shall take place until a Water Supply Impact Study for that phase has been submitted to and approved in writing by the local planning authority.

The study shall determine the magnitude of any new additional water supply capacity required as a result of the development and location of a suitable connection point.

17 Piling Method Statement

No piling within any phase of development shall take place until a piling method statement for that phase (detailing the depth 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.

Any piling shall be undertaken in accordance with the approved details.

18 Sustainable Drainage Strategy

No development shall commence, other than demolition, archaeological and ground investigations, within a phase of development, until a sustainable urban drainage strategy for that phase has been submitted to and approved in writing by the local planning authority.

The drainage strategy shall demonstrate how any SuDS and/or attenuation features will be incorporated into the development in accordance with the drainage hierarchy of London Plan (2016) Policy 5.13. Details for implementation thereafter shall include:-

a) Full drainage plans showing exceedance routes / flow paths;
b) Location of the attenuation tanks and connection points to existing sewers;
c) Demonstration that no surcharging would be experience in a 1 in 2 year storm, no flooding in 1 in 30 year storm, and in a 1 in 100 year storm that flood water would be contained within the site boundaries and kept away from buildings and critical infrastructure;
d) Measures for the maintenance and monitoring of SuDs features

The development shall be carried out in accordance with the approved

details and maintained for the lifetime of the development.

19 Details of Materials

Prior to the commencement of each phase of development approved pursuant to condition 4 the following details for that phase shall be submitted to and approved in writing by the local planning authority:

a) A mock-up panel of no less than 2m by 2m of the external cladding materials;
b) Samples of all other external facing materials including soffits and external rainwater goods;
c) A sample of each type of window to be viewed, where deemed necessary by the local planning authority, on site;
d) Detailed elevation drawings (at a scale of no less than 1:20) and section drawings (of no less than 1:10) of all window reveals/ bay studies, balconies and ground level entrances;
e) Scaled drawings and details of material finish to any rooftop plant.

The development shall be carried out in accordance with the approved details and retained as such thereafter.

20 Landscaping Management Scheme

Notwithstanding the details shown on approved plan 247.07 Rev.E, prior to commencement (except demolition) of development a landscape scheme with details of the treatment of all open spaces associated with the development, including to public open space, communal amenity space and private amenity space, shall be submitted to and approved in writing by the local planning authority. The scheme shall provide the following details:

a) Identify all areas of landscaping, public realm and play space to be delivered in each phase of the development, including delivery timescales;

b) Demonstrate how the overall landscaping measures are entirely consistent with the agreed wind mitigation measures

c) Details of equipment and layout of the children's play spaces, types of play areas, play equipment, how space is differentiated from communal/public open space and how this fits in with the child play space strategy for the whole site;

d) Enclosures, including but not limited to types, dimensions and treatments of walls, fences, screens barriers, rails, retaining walls and hedges;

e) Details of hard landscaping, including but not limited to types, dimensions and treatments of paved areas, paths and rights of way;

f) Details of street furniture, including wayfinding signage, and details of the maintenance of any such furniture;

g) Details of visitor cycle stands consistent with the approved cycle parking provision for the site;

h) Details of external lighting including details of fixtures for street lighting, lighting of open spaces, external lighting of buildings and non-residential ground floor units, hours of operation of lighting and lux levels;

i) Soft landscaping, including numbers and types of species to be planted and how the type of planting will enhance biodiversity;

j) Details of any other landscaping features forming part of the scheme.

All landscaping in accordance with the approved scheme shall be completed/ planted during the first planting season following practical completion of each phase. Any trees or shrubs which die within five years of completion of the development shall be replaced with the same species.

Prior to commencement of each phase of development (except demolition) approved pursuant to condition 4 a Landscaping Management Scheme for that phase shall be submitted to and approved in writing by the local planning authority. The scheme shall include details of how the management scheme for the relevant phase fits in with the site-wide landscape scheme. The landscaping shall be managed in accordance with the approved scheme.

21 <u>Biodiversity Enhancements</u>

Prior to the commencement of any above ground level superstructure works within each phase of development approved pursuant to condition 4, full details of all biodiversity enhancements for that phase shall be submitted to and approved in writing by the local planning authority. The biodiversity enhancements shall include but not be limited to the following:

- biodiverse roofs following the best practice guidance– details provided should include the location and total area of biodiverse roofs, substrate depth (which should vary between 80mm and 150mm) and type, planting (which should not use any vegetated mat or blanket), and additional habitats to be provided such as piles of stones or logs;
- landscaping to include a good diversity of nectar-rich plants to provide food for bumblebees and other pollinators for as much of the year as possible - details should include species list and planting plans;
- bat boxes and nest boxes for appropriate bird species, including swift, house sparrow and house martin – details should include number, locations and type of boxes.

The approved biodiversity enhancements shall be implemented in full prior to first occupation of that phase and shall be retained and maintained as approved thereafter.

21 Nesting Birds

All demolition of existing buildings and removal of trees, shrubs, scrub or tall herbaceous vegetation shall be undertaken between September and February inclusive. If this is not possible then a suitably qualified ecologist shall inspect the areas concerned immediately prior (within 5 days) to the clearance works to ensure that no nesting or nest-building birds are present. If any nesting birds are present then the vegetation around the nest shall not be removed until a suitably qualified ecologist has confirmed that the birds have finished nesting.

A report of the ecology inspection shall be submitted to the local planning authority within two weeks of such an inspection.

22 Details of Mechanical Ventilation – Air Quality

Prior to the commencement of any above ground level superstructure works within a phase of development approved pursuant to condition 4, full details of mechanical ventilation for that phase shall be submitted to and approved in writing by the local planning authority.

The details shall demonstrate how NO_2 annual objectives in accordance with the Air Quality Standards Regulations 2010 are achieved for the proposed residential units including, where applicable, details of mechanical ventilation from air inlet at roof level or at the façade to provide cleaner air for the residents where facades to residential units are predicted to exceed the NO_2 objective.

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

23 Details of Cycle Parking

Prior to commencement of superstructure development above ground level within each phase of development approved pursuant to condition 4, details of the cycle parking facilities for that phase shall be submitted and approved in writing by the local planning authority. Details to be submitted shall include a detailed layout plan (no less than 1:50) for the cycle parking facilities and details of secure cycle stands in compliance with London Plan (2016) minimum standards (located at basement level and on-surface), including provision of 'Sheffield' type cycle stands.

The cycle parking facilities shall be in place and fully operational prior to the occupation of that phase and all stands and other cycle parking facilities shall be regularly maintained to function fully for the life of the development.

24 Waste Management Strategy

Prior to commencement of any works above ground floor level within each phase of development approved pursuant to condition 4, a Waste Management Strategy for that phase shall be submitted to and approved in writing by the local planning authority.

The Waste Management Strategy for each phase shall include the following information:

- Details of a strategy for minimising the production of waste for the occupied development;
- Details of the provision of facilities for the storage and collection of separated wastes (including separated storage of recyclable materials);
- Details of waste service vehicle routing and the proposed collection points.

The approved Waste Management Strategy shall be implemented as approved and maintained for the lifetime of the development.

25 Wind Mitigation Measures

Prior to the commencement of above ground works within each phase of development approved pursuant to condition 4, a Wind Mitigation Report for that phase shall be submitted to and approved in writing by the local planning authority. The Report shall:

i. Demonstrate that the wind mitigation measures to be implemented within that phase achieve suitable wind conditions relevant to that phase and do not undermine the identified wind mitigation in subsequent phases of the development;

ii. Demonstrate that the landscaping is consistent with the illustrative landscaping tested in the ES wind tunnel testing and if altered additional wind tunnel testing shall be undertaken and submitted to confirm that conditions on occupancy would remain as assessed in the ES, or calmer;

iii. Provide full details to show that suitable wind conditions can be achieved with mitigation measures at least equal or better at all receptors than mitigation measures tested in the 'Pedestrian Level Wind Microclimate Assessment Wind Mitigation Workshop' (June 2016);

iv. Demonstrate that the terraces are suitable for 'sitting' as measured by the Lawson Comfort Criteria and will achieve the standard for 'long term sitting';

v. Identify any areas of seating, and confirm that these have been positioned in locations with suitable wind conditions, or alternatively, mitigation identified and tested to ensure suitable 'long term sitting' conditions can be achieved;

Thereafter design and mitigation measures including landscaping shall be installed in accordance with the details approved prior to first occupation of that phase, and shall be retained as such thereafter. Any trees/vegetation required to provide wind mitigation must be planted at the same maturity as tested and retained thereafter.

The development of that phase shall be carried out in accordance with the approved details and maintained for the lifetime of the development.

26 Secure by Design

Prior to the commencement of any above ground level superstructure works within each phase of development, approved pursuant to condition 4 details of Secured by Design measures for that phase targeted at the Gold standard shall be submitted to and approved in writing by the local planning authority.

The Secured by Design measures shall be implemented in accordance with the approved details, completed prior to the first occupation of the phase and retained for the life of the development.

27 Residential Delivery and Servicing Plan

Prior to occupation of each phase of development approved pursuant to condition 4, a Delivery and Servicing Plan for that phase shall be submitted to and approved in writing by the local planning authority. A delivery and servicing plan shall include, as a minimum, written details of the servicing times for all commercial delivery and collection vehicles serving the (C2 and C3 Use Class) residential units, and the B1 Use Class and flexible use retail (A1-A3 Use Class) units, together with measures to control noise disturbance including use of quiet technology.

The development shall be carried out in accordance with the approved details and maintained for the lifetime of the development.

28 Energy Efficiency and Sustainability

a) The development shall be carried out in accordance with the submitted Energy Statement (by Scotch Partners dated October 2015) and Energy Statement Addendum (by Scotch Partners dated February 2016) and Sustainability Statement (by Scotch Partners dated October 2015). The energy efficiency and sustainability measures set out therein shall be completed prior to the first occupation of each phase of development approved pursuant to condition 4 and retained for the lifetime of that phase.

b) The development shall achieve regulated carbon dioxide emission savings of no less than 30.7% against the Target Emissions Rate of Part L of Building Regulations (2013).

c) The 1,135m^2 photovoltaic array system shall be installed prior to occupation of the final phase of the development, and be retained for the lifetime of the development.

d) The development shall achieve BREEAM 'Very Good' standard on any non-residential units under 500sqm (GIA). Any non-residential units over 500sqm (GIA) shall achieve compliance with at least the 'Excellent' BREEAM standard. Within 6 months of occupation of the assessed unit, a final BREEAM certificate shall be submitted for

approval by the local planning authority demonstrating achievement of BREEAM 'Excellent'.

e) The heat and hot water supply system shall be designed and constructed so as to enable a future connection of the supply system to a district heating network.

f) Prior to installation of heat and hot water supply system for each phase of development a detailed technical specification of the system for that phase shall be submitted and approved in writing by the local planning authority. The specification shall demonstrate that the heat and water supply system does not have unacceptable adverse air quality effects. The report shall include details of any mitigation measures and on-going maintenance & monitoring provisions.

g) All of the approved residential units shall be constructed and fitted out to comply with the Building Regulations 2010 (as amended) optional requirement G2(36)(2)(b) '110 litres water consumption per person per day'.

h) Prior to occupation of each phase of development, a post completion verification report for that phase shall first be submitted to and approved in writing by the local planning authority to confirm that the above minimum standards have been achieved and that all of the approved energy efficiency and sustainability measures have been implemented.

29 Car Park Management Strategy

Prior to the occupation of each phase of development approved pursuant to condition 4, a Car Parking Management Strategy for that phase shall be submitted and be approved in writing by the local planning authority.

a) The Car Parking Management Strategy shall govern the allocation of car parking spaces, including the wheelchair accessible spaces for the lifetime of the development including the option to provide for car parking provision for Council Parking Permit Transfer Scheme to future occupants of the rented affordable housing.

b) The Strategy shall provide full details of 33 wheelchair accessible car parking spaces including a detailed annotated plan of the car parking basement area.

c) No less than 8 car parking spaces shall be provided with electric vehicle charging points. Passive provision for future provision of electric charging points shall be made for further 8 car parking spaces. The charging points as well as passive provision shall be in place prior to the first occupation of the development phase and retained for its lifetime.

d) All car parking spaces shall remain exclusively for use by Blue Badge Bay occupiers of the development and for Council Parking Permit Transfer Scheme for the duration of the lifetime of the development

and not used for other residents of the development.

e) At no time shall any external areas of the development save for those explicitly identified on drawing 1264-A.M 100 be made available for parking of motor vehicles other than to facilitate essential maintenance works.

f) The Car Parking Management Strategy submitted and approved for the final phase shall cover all phases of the development and thereby supersede any Car Parking Management Strategy previously agreed for earlier phase/s.

30 Commercial units

The flexible use spaces hereby permitted in Buildings B1, D1 and E and marked on the approved plans as 'retail' shall be used for uses falling within Classes A1, A2 or A3 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and for no other use. Before any such space is occupied, a plan shall be submitted to and approved in writing by the local planning authority to confirm the nature of the use and to define the extent of any ancillary outdoor area for the use. The development shall be carried out in accordance with the approved details and retained as such thereafter.

31 Commercial Shop Fronts

Prior to the first occupation of any flexible use spaces hereby permitted in Buildings B1, D1 and E and marked on the approved plans as 'retail' within each phase of development approved pursuant to condition 4, full details of the proposed shop fronts for the applicable non-residential unit within that phase shall be submitted to and approved in writing by the local planning authority, including details of the following:

i. Detailed drawings at scale 1:20 (including sections) of the proposed shop fronts;
ii. Detailed drawings at scale 1:20 of the proposed area for signage;
iii. Details of the proposed materials for the shop front; and
iv. Details of any security measures.

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

32 A1-A3 Opening Hours

Any A1, A2, or A3 use hereby permitted shall not open to the public outside the hours of: -

0600 – 23:00 Sunday – Thursday
0600 – 23:30 Friday and Saturday

33 Crane Plan

Prior to the commencement of development, a crane lifting plan shall be submitted to and approved in writing by the local planning authority.

The lifting strategy shall include details of the Risk Assessment and Method Statement for siting, erection, lifting arrangements, operational procedure (including any radio communications), jacking up, maximum height, derigging in addition to plans for elevation, loads, radius, slew restrictions and collapse radius.

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

34 Cleaning Gantry

Any cleaning gantry equipment erected in connection with the development shall be designed so that it is fully retractable behind all sections of the facing edges of the building on which it is placed. The gantry shall be kept fully retracted when not in use.
