



Department for
Communities and
Local Government

Mr Peter Weatherhead
Weatherhead Planning
44 West End Lane
Esher
Surrey
KT10 8LA

Our Ref: APP/G5750/A/13/2198313
APP/G5750/A/13/2206531
APP/G5750/C/13/2203432
Your Ref: C124.1

28 October 2015

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTIONS 78 AND 174
APPEAL BY MR SOLAD MOHAMMED
LAND AT RIVERINE CENTRE, MASJID ILYAS, CANNING ROAD, LONDON, E15 3ND**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, D. E. Morden MRTPI, who held a public local inquiry on 3 - 6, 10 – 13 and 17 - 20 June 2014 into your client's appeals against the decisions of the London Borough of Newham (the Council) to refuse outline planning permission (Appeal A), to fail to determine within the prescribed period (Appeal B), and to issue an enforcement notice (Appeal C) as follows:
 - **Appeal A:** outline planning permission with all matters reserved for subsequent approval apart from layout for the continued use of existing buildings as a mosque; demolition of existing buildings for the construction of a mosque and ancillary facilities (including 8 accommodation units for guests and Imam, library and dining hall) including temporary use of the ancillary facilities as a mosque during the construction phase; multi-use games area, tennis courts, sports pavilion and open space together with associated access, parking and landscaping at land at Riverine Centre, Masjid Ilyas, Canning Road, London, E15 3ND in accordance with application number 12/00358/LTGOUT dated 12 July 2012.
 - **Appeal B:** the renewal of temporary planning permission for a further two years for the retention of a security building, change of use of land to a mixed composite use of vacant land and place of worship and change of use of all buildings as a place of worship and retention of hard standing as a car park at the same address in accordance with application number 13/00831/VAR dated 16 May 2013.
 - **Appeal C:** made against an enforcement notice issued by the Council reference 13/01138/ENFC issued on 16 July 2013.
2. On 19 June 2013, Appeal A was recovered for the Secretary of State's determination, in pursuance of section 79 of, and paragraph 3 of Schedule 6 to, the Town and Country

Department for Communities and Local Government
Christine Symes, Decision Officer
Planning Casework
3rd Floor Fry Building
2 Marsham Street
London SW1P 4DF

Tel: 0303 444 1626
Email: PCC@communities.gsi.gov.uk

Planning Act 1990, because it involves proposals which give rise to substantial regional or national controversy. Appeals B and C were recovered subsequently because they were considered to be most efficiently and effectively decided with Appeal A.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that Appeal A be dismissed and planning permission refused and that Appeal B be allowed and planning permission granted subject to the conditions set out in Appendix 3B to his report. The Inspector also recommended that, in the event that both Appeal A & Appeal B are dismissed, subject to the variations set out at IR595, Appeal C should be dismissed and the enforcement notice upheld.
4. For the reasons given below, the Secretary of State agrees with the Inspector's analysis in respect of Appeal A and Appeal C apart from where stated. He has decided to dismiss Appeal A and refuse planning permission and to dismiss Appeal C and vary and uphold the enforcement notice. For the reasons given below, he has also decided to dismiss Appeal B and refuse planning permission for it. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Environmental Statement

5. In reaching this position, the Secretary of State has taken into account the Environmental Statement which was submitted under the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999 and the environmental information submitted before the inquiry opened. Having taken account of the Inspector's comments at IR6, he is satisfied that the information provided in the Environmental Statement is sufficient for it to be an Environmental Statement in accordance with the above Regulations.

Procedural Matters

6. The Secretary of State agrees with the Inspector (for the reasons given at IR15-16) that the plans submitted with the Appeal A scheme provide sufficient information for a reasoned assessment of the proposals and issues in this case to be properly undertaken and a formal decision made (IR16).
7. The Secretary of State has had regard to the Inspector's remarks about Appeal C and, for the reasons given by the Inspector, has proceeded to determine Appeal C on ground (g) only (IR17-18).

Matters arising since the close of the inquiry

8. The Secretary of State has received a large number of post inquiry representations which were submitted too late to be considered by the Inspector. The Secretary of State has given careful consideration to all these representations, but he does not consider that they raise new issues that would affect his decision or require him to refer back to parties. Copies of the representations are not attached to this letter but will be provided on application to either of the addresses at the bottom of the first page of this letter.

Main issues

9. The Secretary of State agrees with the Inspector (IR495) that the main issues in this case are those laid out at IR27-33.

Policy and Statutory Considerations

10. In deciding appeals A and B, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
11. In this case the development plan consists of the London Borough of Newham Core Strategy (CS) adopted January 2012; the saved policies of the Newham Unitary Development Plan adopted in 2006; and the London Plan (TLP) adopted in 2011; the Revised Early Minor Alterations to the London Plan (REMA) published October 2013; and the Further Alterations to the London Plan (FALP) published March 2015. The Secretary of State considers that the development plan policies of most relevance to these appeals are those summarised by the Inspector at IR35-37.
12. Further policy documents which the Secretary of State has taken into account are the Mayor of London's Olympic Legacy Supplementary Planning Guidance (OLSPG) adopted in July 2012 and Planning for Equality and Diversity in London Supplementary Planning Guidance (PEDLSPG) adopted in October 2007 (IR34, IR38 and IR39).
13. Other material considerations which the Secretary of State has taken into account include the National Planning Policy Framework, March 2012 (the Framework), the accompanying planning practice guidance (the guidance) and the Community Infrastructure Levy (CIL) Regulations.
14. In accordance with section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 (the LBCA Act), the Secretary of State has paid special regard to the desirability of preserving those listed buildings potentially affected by the appeal schemes or their settings or any features of special architectural or historic interest which they may possess. The Secretary of State has also paid special attention to the desirability of preserving or enhancing the character or appearance of conservation areas, as required by section 72(1) of the LBCA Act.

Appeal A

Impact on the planned use of the site

15. The Secretary of State agrees with the Inspector's analysis at IR496-533 and with his conclusions at IR534-536. Like the Inspector (IR536), he too concludes that substantial weight should be afforded to the objection to the development due to the loss of housing provision on a large important site in the Council's strategy to reach 40,000 new homes by 2027. The Secretary of State also agrees with the Inspector that the appellant has not demonstrated a need for a mosque of this size on this site and that the proposal does not further the Council's convergence aims set out in the Core Strategy (IR536). In common with the Inspector, the Secretary of State acknowledges that there would be less employment provision than envisaged and that provision for better pedestrian movements through the site and to West Ham station would be provided, but he does not consider that this outweighs the matters that count against the development in considering this issue (IR536).

Impact on highway safety

16. The Secretary of State has considered the Inspector's analysis of the impact of the proposal on highway safety at IR537-548. For the reasons given in those paragraphs, he agrees with the Inspector's conclusions at IR549-550 and he too is satisfied that refusing permission on highway grounds is not justified.

Impact of the previous use of the site - contamination

17. For the reasons given at IR551-556, the Secretary of State agrees with the Inspector's finding (IR557) that, subject to the imposition of suitable conditions, contamination should not be a problem either for the permanent development proposed or for the continued use of the existing buildings during construction of Phase 1. He also concurs with the Inspector that it should not be a problem for the use of the Phase 1 buildings whilst Phase 2 is under construction (IR557).

Impact on the character and appearance of the area

18. The Secretary of State has considered the Inspector's analysis of the impact of the proposal on the character and appearance of the area at IR558-572. He agrees with the Inspector that, in the circumstances described at IR559, the plans are sufficient to assess the impact of the development on the adjoining Conservation Area (CA), the nearby statutory listed buildings and the area generally.
19. For the reasons given by the Inspector at IR560-568, and having paid special attention to the desirability of preserving or enhancing the character or appearance of the Three Mills CA, the Secretary of State shares his view that the development would not have a harmful impact on the setting of the CA (IR565) and that its setting would be preserved (IR568). Turning to the listed buildings identified by the Inspector at IR9, IR570 and set out in greater detail in evidence document C13, the Secretary of State attaches considerable importance and weight to the desirability of preserving the buildings or their settings or any features of special architectural or historic interest which they may possess. Having given very careful consideration to the Inspector's reasoning at IR569-572, the Secretary of State shares his view that the setting of the listed buildings would be preserved and that the appeal development would have no harmful effect on them (IR572). Overall, the Secretary of State agrees with the Inspector's conclusion that Appeal A would not result in harm to any heritage asset or the area generally (IR573).

Planning Obligations and Conditions (Appeal A)

20. The Secretary of State has had regard to the Unilateral Undertaking dated 4 July 2014, the Inspector's comments at IR467-473 and the CIL Regulations and he notes that neither the parties nor the Inspector express any concern about the lawfulness and appropriateness of the obligations within the submitted undertaking (IR468). However, the Secretary of State observes that the date of the obligation and the date of the Inspector's report both pre-date the commencement of CIL regulation 123. The Secretary of State has therefore considered whether it is necessary for him to refer back to parties in respect of regulation 123 prior to determining this appeal. However given his decision to dismiss Appeal A (for reasons which are set out in this decision letter), he does not consider it necessary for him to do so.
21. The Secretary of State has also considered the Inspector's comments at IR474-488, the schedule of conditions set out at Annex 3A to the IR. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that the conditions would overcome his reasons for dismissing the appeal.

Appeal A - Overall conclusion

22. The Secretary of State has given very careful consideration to the Inspector's remarks at IR574 – 577. He has concluded that, subject to the imposition of suitable conditions, contamination should not be a problem in this case (paragraph 17 above) and that Appeal A would not result in harm to any listed building, the Three Mills CA or the area generally (paragraph 19 above). Like the Inspector (IR574), the Secretary of State considers that

while there would be some harm to the amenity of nearby residents due to cars parking off site, this is not sufficient by itself to withhold the granting of planning permission.

23. However, the Secretary of State shares the Inspector's view (IR575) that the loss of a strategic site for its planned purpose is a very strong objection which carries substantial weight. The Secretary of State also considers that there is no case made out for a development of this size for this particular limited mix of uses on this site. The Secretary of State considers that Appeal A is not in accordance with the provisions in the development plan and notes that this was accepted by the appellants (IR575). As such, the Secretary of State has gone on to consider whether material considerations indicate that the appeal should be determined otherwise than in accordance with the development plan. As set out by the Inspector (IR576), the appellants relied on proving a need for the proposal and on showing that development of the site in line with the development plan was not viable. However, the Secretary of State does not consider that the appellants proved either of these points.

24. The Secretary of State has considered whether the scheme's benefits would outweigh the harm it would cause. However, he agrees with the Inspector at IR576 that the appellants did not prove a need for the proposal. Furthermore he also shares the Inspector's view at IR577 that the benefits of highway improvements, better pedestrian links, the redevelopment of a fairly derelict site and the provision of a better place of worship for a large section of the community in the area plus the provision of some sports facilities are not sufficient to outweigh the strong policy objections in this case. In view of his findings that the appeal scheme would result in the loss of housing provision on a large important site and that it would not further the Council's convergence aims, the Secretary of State considers that there are economic and social reasons which demonstrate that the scheme does not amount to sustainable development.

Appeal B

25. Having had regard to the Inspector's comments at IR578, and given his conclusion on Appeal A, the Secretary of State has gone on to consider Appeal B which seeks temporary permission for the continued use of the existing buildings and car park for two years.

26. The Secretary of State has given very careful consideration to the Inspector's reasoning and conclusion that Appeal B should be allowed if Appeal A is refused (IR579-586). He has also taken account of the appellant's position, which is summarised by the Inspector at IR190 – 193. The Secretary of State considers that the submission of the Council is valid that, if allowed, Appeal B would amount to a third temporary permission and that should not be granted for a development that is inconsistent with the development plan and that such a decision would not accord with the guidance (Paragraph: 014 Reference ID: 21a-014-20140306) which states that it will rarely be justifiable to grant a second temporary planning permission (IR579). The Secretary of State observes that CS policy S10 is a site specific allocation (IR35) and that the site also lies within CS policy S1's Arc of Opportunity which is promoted in the CS as a focus for regeneration and growth and where development is intended to secure transformational change for the Borough (IR36). He shares the Council's view (IR359-360 and IR581) that a further temporary permission would be likely to further defer the aspirations for the site as set out in the development plan, particularly as the appellants are the site owners. The Secretary of State considers the conflict with national guidance and the likely delay in the achievement of the development plan's aspirations are significant considerations which weigh against Appeal B.

27. Like the Inspector (IR582), the Secretary of State acknowledges that the appellants have a large, longstanding and regular congregation mainly based in the locality that visits the premises to worship and attend other meetings. He has also taken account of the

appellant's view that it would not be easy to find an alternative site in the area and the fact that this was not really disputed (IR582). The Secretary of State observes that this view is consistent with the Inspector's earlier comments about the recognition in the PEDLSPG that the large congregations which are developing in some faiths require large spaces to accommodate all worshippers in their services and in many cases experience difficulty in finding appropriate sites (IR39). The Secretary of State considers these to be material considerations which carry some weight in favour of Appeal B.

28. The Secretary of State observes, however, that the Council's evidence (IR208) is that the appellants fully engaged with the examination in public into the emerging Core Strategy, including through professional representation at the examination and that they took no substantive issue with emerging policy S10 and its aspirations for a mixed use development on the appeal site. He also observes that policy S10 makes plain that the site may include faith based uses, provided it is of a scale which is proportionate and does not dominate the overall mix of uses (IR35). In these circumstances he considers that the appellants have had reasonable opportunity to bring forward policy compliant proposals for the site.
29. The Secretary of State has also taken account of the Inspector's remarks about the site's planning history (IR43 – 58); evidence document H46; and the appellant's statement that there is an injunction hanging over the site, subject to the outcome of these appeals and that, if Appeals A and B are both unsuccessful, the current use of the site is to cease within 6 weeks, or the Trustees will be in contempt of court (IR192). The Secretary of State considers that although the court proceedings to which the appellants refer at IR192 are clearly very significant for the Trustees and those who currently use the appeal site, they do not add weight in favour of Appeal B.
30. The Secretary of State has also considered whether it would be appropriate to grant temporary permission for a shorter period but that is also likely to delay policy compliant proposals for the site coming forward. He has also considered whether it would be appropriate to grant a very brief temporary consent but considers this would not provide sufficient time for the appellants to find an alternative location to meet their needs or to bring forward new, acceptable proposals for the appeal site (to include a mosque) and secure planning consent for those proposals.
31. In conclusion on Appeal B, the Secretary of State considers that a decision to grant temporary permission would result in the further deferral of a policy compliant use for this strategic site coming forward. He considers that this would be at odds with the aims of CS Policies S1 and S10 and with the development plan overall. It would also be at odds with national guidance. The Secretary of State has considered whether material considerations indicate that the appeal proposal should be determined other than in accordance with the development plan. He recognises that there are considerations weighing in favour of Appeal B, however he does not consider that those considerations outweigh the conflict he has identified. In light of his view that Appeal B would be likely to result in delay to the achievement of the development plan's aspirations for the site, the Secretary of State considers that there are economic and social reasons why Appeal B does not amount to sustainable development. Accordingly he has decided to dismiss Appeal B.

Planning Conditions (Appeal B)

32. The Secretary of State has considered the Inspector's comments at IR489-494 along with the recommended conditions at Annex 3B. The Secretary of State is satisfied that the proposed conditions are reasonable and necessary and would meet the tests of paragraph 206 of the Framework. However, he does not consider that the conditions would overcome his reasons for dismissing the appeal.

Appeal C

33. The Secretary of State has had regard to the Inspector's comments at IR587 which records that the appellants stated that the appeal on ground (f) should be considered as withdrawn if the Notice requirements were varied as agreed between the main parties and that the appeal on ground (g) would be successful in as much as the time for compliance would be extended to three months as agreed by the Council.
34. The Secretary of State has considered the Inspector's analysis at IR587-592 and, for the reasons given in those paragraphs, he agrees with the Inspector that the enforcement notice in respect of Appeal C should be varied as set out at IR595 and the compliance periods extended. Subject to these changes, the Secretary of State dismisses the appeal and up-holds the enforcement notice.

Public Sector Equality Duty

35. In accordance with section 149 of the Equality Act 2010, due regard has been given to the need to (a) eliminate discrimination, harassment, victimisation; (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it. The Secretary of State has considered the protected characteristics of religion or belief, race, sex and disability. He considers that the main protected characteristic relevant to these appeals is that of religion or belief as the appeals relate to the use of the site as a mosque for the Tablighi Jamaat movement of the Muslim faith.
36. It is recognised that dismissal of the appeals will likely impact on many persons of Muslim faith particularly those associated with the Tablighi Jamaat movement. However, it is considered that the proposed scheme is not in accordance with the development plan, which allocated the appeal site as a strategic site for mixed use and, if approved, the site would not be used to build new homes and contribute to the regeneration of the area. Allowing appeal A would result in the loss of a strategic site for its planned purpose and allowing appeal B would likely delay policy compliant proposals coming forward for the use of the site. Therefore, having considered the impacts, the Secretary of State is of the view that in the circumstances of this case it would be appropriate to dismiss all 3 appeals for the reasons outlined in this decision letter.

Formal Decision

37. Accordingly, for the reasons given above the Secretary of State agrees with the Inspector's recommendation on Appeal A, disagrees with the Inspector's recommendation on Appeal B and agrees with the Inspector's recommendation on Appeal C. He hereby;
- dismisses your client's appeal and refuses planning permission for the continued use of existing buildings as a mosque; demolition of existing buildings for the construction of a mosque and ancillary facilities (including 8 accommodation units for guests and Imam, library and dining hall) including temporary use of the ancillary facilities as a mosque during the construction phase; multi-use games area, tennis courts, sports pavilion and open space together with associated access, parking and landscaping, in accordance with application 12/00358/LTGOUT, dated 12 July 2012 (and registered as complete on 5 September 2012), at land at Riverine Centre, Masjid Ilyas, Canning Road, London, E15 3ND.
 - dismisses your client's appeal and refuses renewal of temporary planning permission for a further two years for the retention of a security building, change of use of land to a

mixed composite use of vacant land and place of worship and change of use of all buildings as a place of worship and retention of hard standing as a car park, in accordance with planning application 13/00831/VAR dated 16 May 2013 at land at Riverine Centre, Masjid Ilyas, Canning Road, London, E15 3ND.

- varies the Enforcement Notice as follows:

(a) Delete the word 'debris' after the word 'resulting' in the first line of paragraph 5.4 and

(b) Delete paragraph 5.5 and substitute therefor 'Cease the use of the areas coloured light blue and labelled 'car park' as shown outlined on the attached plan (Map 2) for the parking of vehicles.'

(c) In the Time for Compliance at the end of paragraph 5 delete the words 'one calendar month' and substitute for 'three calendar months.'

and dismisses the appeal, upholding Enforcement Notice reference 13/01138/ENFC. issued on 16 July 2013.

Right to challenge the decision

38. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. From 26 October 2015, this must be done by making an application to the High Court within six weeks from the date of this letter for leave to bring a statutory review under section 288 of the Town and Country Planning Act 1990.
39. A copy of this letter has been sent to the London Borough of Newham, Newham Concern Limited, and Newham Peoples' Alliance. Notification has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Christine Symes

Christine Symes

Authorised by Secretary of State to sign in that behalf



Report to the Secretary of State for Communities and Local Government

by D. E. Morden MRTPI

an Inspector appointed by the Secretary of State for Communities and Local Government

Date: 12 January 2015

TOWN AND COUNTRY PLANNING ACT 1990

COUNCIL OF THE LONDON BOROUGH OF NEWHAM

APPEALS MADE UNDER S78 & S174 OF THE ACT BY MR SOLAD MUHAMMED (TRUSTEES OF ANJUMAN-E-ISLAHUL-MUSLIMEEN OF LONDON)

Inquiry held on 3 - 6, 10 - 13 and 17 - 20 June 2014

Appeal site: Riverine Centre, Masjid Ilyas, Canning Road, London, E15 3ND

File Refs: APP/G5750/A/13/2198313, APP/G5750/A/13/2206531, APP/G5750/C/13/2203432

CONTENTS

Page	Section
2	The appeals and Summary Recommendations
3	Preliminary Matters
7	Procedural Matters
8	The site and its surroundings
10	Main issues/considerations
11	Planning Policy
13	Planning history and background
16	The proposals
17	Case for Trustees of Anjuman-E-Islahul-Muslimeen of (London) UK
20	Appeal A
21	<i>Issue A</i>
29	<i>Issue B</i>
34	<i>Issue C</i>
35	<i>Issue D</i>
40	Appeal B
40	Appeal C
41	Case for the Council of the London Borough of Newham
41	Appeal A
45	<i>Issue A</i>
61	<i>Issue B</i>
64	<i>Issue C</i>
66	<i>Issue D</i>
70	Appeal B
71	Appeal C
72	Case for Newham Concern Limited
72	Appeal A
73	<i>Issue A</i>
77	<i>Issue B</i>
79	<i>Issue C</i>
86	Case for Newham Peoples Alliance
86	Appeal A
86	<i>Issue A</i>
87	<i>Issue B</i>
89	Cases for Interested Persons
89	Written representations
91	The s106 Undertaking
92	Planning Conditions
96	Inspector's Conclusions
96	Appeal A
108	Appeal B
110	Appeal C
111	Formal Recommendations
112	Appearances
114	Appendix 1 Documents, plans and photographs
123	Appendix 2 Acronyms/abbreviations in the report and evidence
125	Appendix 3 Planning conditions (Appeals A and B)

Appeal A: APP/G5750/A/13/2198313

Riverine Centre, Masjid Ilyas, Canning Road, London, E15 3ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant outline planning permission.
- The appeal is made by Mr Solad Mohammed on behalf of The Trustees of Anjuman-E-Islahul-Muslimeen of (London) UK against the decision of the Council of the London Borough of Newham.
- The application Ref: 12/00358/LTGOUT, dated 12 July 2012 (and registered as complete on 5 September 2012), was refused by notice dated 20 December 2012.
- The development proposed is the continued use of existing buildings as a mosque; demolition of existing buildings for the construction of a mosque and ancillary facilities (including 8 accommodation units for guests and Imam, library and dining hall) including temporary use of the ancillary facilities as a mosque during the construction phase; multi-use games area, tennis courts, sports pavilion and open space together with associated access, parking and landscaping.

Summary Recommendation: I recommend that the appeal be dismissed.

Appeal B: APP/G5750/A/13/2206531

Riverine Centre, Masjid Ilyas, Canning Road, London, E15 3ND

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a failure to give notice within the prescribed period of a decision on an application for planning permission.
- The appeal is made by Mr Solad Mohammed on behalf of The Trustees of Anjuman-E-Islahul-Muslimeen of (London) UK against the Council of the London Borough of Newham.
- The application Ref: 13/00831/VAR is dated 16 May 2013.
- The development proposed is the renewal of temporary planning permission for a further two years for the retention of a security building, change of use of land to a mixed composite use of vacant land and place of worship and change of use of all buildings as a place of worship and retention of hard standing as a car park.

Summary Recommendation: I recommend that the appeal be allowed subject to conditions.

Appeal C: APP/G5750/C/13/2203432

Riverine Centre, Masjid Ilyas, Canning Road, London, E15 3ND

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Mr Solad Mohammed on behalf of The Trustees of Anjuman-E-Islahul-Muslimeen of (London) UK against an enforcement notice issued by the Council of the London Borough of Newham.
- The Council's reference is 13/01138/ENFC.
- The notice was issued on 16 July 2013.
- The breach of planning control alleged in the notice is the failure to comply with condition No 1 of planning permission Ref: APP/G5750/C/10/2125895 granted on appeal on 23 May 2011.
- The development to which the permission relates is the change of use of land and all buildings outlined red on the plan (Map 1) attached to the enforcement notice as a place of worship, the erection of various buildings and extensions as outlined by dark blue shading on the plan (Map 2) attached to the enforcement notice and the establishment of hard standing as a car park as outlined by light blue shading on the plan (Map 2) attached to the enforcement notice and annotated as 'car park'.
The condition in question is No 1 which states that: The planning permission shall

be for a limited period, expiring two years after the date of this permission. Upon expiry of the permission the use shall cease and the buildings hatched red on drawing 5061.11 shall be removed. Three months before the expiry date of the planning permission, a land reinstatement scheme, including a timetable for the reinstatement scheme, shall be submitted to and approved in writing by the planning authority. The reinstatement shall thereafter be carried out in accordance with the approved scheme and associated timetable.

- The notice alleges that the condition has not been complied with in that the temporary use has continued beyond 23 May 2013, the buildings hatched in red on Drawing 5061.11 (Map 1 attached to the enforcement notice) remain, no land reinstatement scheme was received by the Local Planning Authority three months before the expiry of the consent and the land has not been reinstated to an approved timetable.
- The requirements of the notice are as follows: (1) Cease the use of the land as a mixed composite use of vacant land (nil use) and a place of worship shown outlined red on the attached plan (Map 1); (2) cease the use of all buildings as places of worship on the land shown outlined in red on the attached plan (Map 1); (3) remove all buildings shown hatched red on the attached plan (Drawing 5061.11) and strip and cap all services, including but not limited to water, drainage, electricity and gas; (4) remove to a suitably licensed waste site all debris resulting debris [sic] from step 3 (with consideration given to any material defined as 'hazardous waste') in compliance with the Waste (England and Wales) Regulations; and (5) undertake a reinstatement of the land by: a) excavating the hard surface area coloured light blue and labelled 'car park' as shown outlined on the attached plan (Map 2); b) removing to a suitably licensed waste site all debris resulting from step 5a (with consideration given to any material defined as 'hazardous waste') in compliance with the Waste (England and Wales) Regulations; and c) capping the land by providing a 1 metre thick capping system, which shall extend the full areas specified in steps 3 and 5a, and, 2 metres beyond the boundaries of those areas. The capping system shall accord with the following specifications:- (i) 0.25m granular capillary break layer between geo-textile layers; (ii) 0.5m compacted clay; (iii) finished with 0.25 type 2 sub base to the top.
- The period for compliance with the requirements is one month.
- The appeal is proceeding on the grounds set out in section 174(2)(f) and (g) of the Town and Country Planning Act 1990 as amended. Since the prescribed fees have not been paid within the specified period, the application for planning permission deemed to have been made under section 177(5) of the Town and Country Planning Act 1990 as amended does not fall to be considered.

Summary Recommendation: I recommend that the appeal be dismissed and the enforcement notice be varied and upheld.

Preliminary Matters

Planning Conditions

1. Two lists of planning conditions are attached at Appendices 3A and 3B (one for Appeal A and one for Appeal B) should the Secretary of State decide that either should be allowed. They have been set out to include the reasons for them as put forward by the parties as many were agreed and the reasons just show the agreed justification for those conditions. No reasons for any of the conditions need to be attached to any permission(s) granted.

Inquiry and Site Visits

2. The inquiry sat for thirteen days (including site visits) on 3 – 6; 10 – 13 and 17 – 20 June 2014 and a pre inquiry site visit to which the appellant, the Council and the two Rule 6 parties were invited, taking place on 21 May 2014.
3. Newham Concern Limited (NCL) and Newham Peoples' Alliance (NPA) were originally granted Rule 6 status although this was later taken away from NPA

as it did not comply with the rules for submitting evidence as required by the Regulations despite several reminders from the Inspectorate. Both were permitted, however, to present their separate cases at the inquiry; the former supporting the Council and the latter supporting the appellant. Two interested persons (one supporting the Council and one supporting the appellant) also made representations at the inquiry. In addition there were a considerable number of written representations submitted.¹

4. I carried out an accompanied visit to the site and its surroundings prior to the opening of the inquiry which included an extensive walking tour of the area and a journey on the London Underground past the southern site boundary. The tour included walking through the Three Mills Conservation Area to the west and to the places from where photographs of the site (some with impressions of the completed development) included in the appeal documents had been taken.
5. A further accompanied visit of the site and the surrounding area took place on 19 June (the day before closing submissions were made) and during the evening of 19 June I made an unaccompanied visit to observe comings and goings both on foot and by car whilst one of the Thursday evening meetings was taking place at the site.

Environmental Impact Assessment²

6. The outline application falls within the scope of item 10 in the table at paragraph 2 of Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999. The planning application was accompanied by a comprehensive Environmental Statement (ES) and a non-technical summary. Further information was requested by the Inspectorate which was submitted before the inquiry opened. No further representations were made by any parties at the inquiry regarding the statement and having considered all the information within the revised document I am satisfied that it is sufficient to be an environmental statement in accordance with the above Regulations.

Statement of Common Ground

7. A Statement of Common Ground (SOCG) was agreed between the Council and the appellants but only as an agreed draft; no signed formal document was actually produced. There was also no Statement of Common Ground with either Rule 6 party although NCL stated that it was happy to reinforce the stance of the Council.
8. General matters such as the site's description and buildings thereon, its planning history, the relevant submitted drawings, the planning background leading to the submission of the applications and the relevant Development Plan position and list of policies relevant to this appeal are all set out in that document.
9. It was also agreed that within the vicinity of the site were a number of Heritage Assets; ten Grade II listed buildings within the Gas Works site to the south west including Victorian gas holders, the Twelve Trees Crescent Bridge, a statue of Sir Corbett Woodhall and a war memorial. To the west stands the Grade II listed West Ham pumping station and Three Mills Conservation Area. Within the Conservation Area are seven Grade II listed buildings associated

¹ CD H57

² CD C1-36

with the Grade II* listed Abbey Mills Pumping Station and archaeological site. A further four buildings (including the Grade I House Mill and Grade II* Clock Mill) associated with the Three Mills complex lie further west and also the Grade II listed waterworks cottages. The Conservation Area also includes The Still (Three Mills Distillery), which is identified as a building of local architectural interest.

10. In detail the SOCG set out that two issues not in dispute were firstly, that there was no objection to redevelopment of the appeal site including an element of community uses (including a faith based use), but of a scale which is proportionate and which does not dominate the overall mix of uses on the site in respect of land take, scale and traffic generation and to be located either within the local centre or well connected to the local centre and the station. Secondly, the existing buildings on site should not be retained on a permanent basis.
11. It was also agreed by the appellants and the Council that part of reason number five for the refusal of the outline planning permission (Appeal A), with specific reference to the safe and appropriate mitigation of the appeal site given the acknowledged levels of contaminated land present, could be overcome by conditions and six conditions were set out in the document. The conditions do not address the issues of phasing for the proposed development and this matter continues to be a point of dispute between the appellants and the Council.
12. There were a number of matters listed that were in dispute and the key areas of disagreement were listed as follows:-
Appeal A
 - (a) Whether a form of development compliant with relevant policies in the Core Strategy is viable and deliverable within the plan period.
 - (b) Whether there is any basis for departing from the site specific allocation of the appeal site within the Core Strategy;
 - (c) Whether it is acceptable for the existing buildings to remain for a further period of time.
 - (d) Whether the combined mass, scale, footprint, height and bulk of the proposed development will when taken together, result in the introduction of a building that will be monolithic, incongruous and overly dominant in relation to both the application site and the surroundings, causing material harm in particular to visual amenity and townscape value, including but not limited to the character and appearance of, and views from, the Three Mills Conservation Area and the setting of listed buildings in the locality.
 - (e) Whether the development will result in a significant and unsustainable number of car borne journeys which cannot be accommodated on the application site or on the surrounding highway network and whether the transport proposals and implications of the proposed development are acceptable.
 - (f) Whether the contamination present on the appeal site has been adequately assessed and mitigated within the proposed development.Appeal B
 - (g) Whether the further retention of the existing buildings is acceptable or necessary.

Appeal C

- (h) Whether the requirements of the Enforcement Notice, requiring the removal of the existing buildings are excessive and unduly onerous.
- (i) Whether a time period of one month for compliance is adequate.

Unilateral undertaking pursuant to s106 of the Town and Country Planning Act 1990

13. A signed and witnessed undertaking under s106 concerning off site highway works, a Travel Plan, the safeguarding of access to the Parcelforce land to the south, the identification of public realm within the appeal site and its use and access, and matters concerning the management and operation of the sports facilities to be provided was completed and submitted by the appellant within the agreed timescale after the formal close of the inquiry (i.e., by 4 July 2014).³

Faith based use

14. NCL, before the PIM had taken place, stated that the particular faith use proposed was a planning issue in this case. Formal submissions were made following the PIM but before the Inquiry opened (as requested by the Inspectorate) by NCL, the Council and the appellant. It was clear from the comments made at the start of the inquiry that the parties accepted that matters to be considered had to be planning matters, that the nature of the occupier could be a planning matter and evidence/submissions had to be limited to that and that a planning inquiry could not be a forum for criticising any particular appellant's philosophies. Any evidence and submissions would be presented on that basis.

³ CD H55

Procedural Matters

Appeal A

15. Appeal A concerns an outline application with all matters reserved for subsequent approval apart from the layout. Full, scaled, architectural drawings (plans, elevations and sections) as well as drawings and artists' impressions of the structure both by itself and in the surrounding landscape were submitted with the application. Newham Concern Limited (NCL) had questioned early on (before the Pre Inquiry Meeting) whether such an application was appropriate for a development of the scale proposed and whether the Secretary of State could give proper consideration to it.
16. The appellants and Council agreed that the illustrative drawings and parameter plans were sufficient; the Council had determined the application on the basis of them, considered them sufficient to assess the impact on nearby heritage assets and presented its evidence on that basis. NCL for its part acknowledged that any permission could be conditioned to refer those plans. I consider that the plans submitted with the application provide sufficient information for a reasoned assessment of the proposals and issues in this case to be properly undertaken and a formal decision made. My report and recommendation deals with the appeal on that basis.

Appeal C

17. Appeal C is a s174 appeal against an enforcement notice issued in July 2013 requiring the use to cease, the removal of the buildings and the excavation and treatment of that part of the land used as a car park. No fee was paid, as required by the legislation at the time the appeal was made, and there is, therefore, no deemed planning application to be considered; only the appeals on grounds (f) and (g) remained to be determined at the opening of the inquiry. The issued Notice correctly alleges the failure to comply with a condition attached to the permission granted on appeal in 2011.
18. These two grounds of appeal were basically resolved by agreement during the course of the inquiry. It was agreed that the terms of the Enforcement Notice would be varied, both to lessen the steps required and to extend the time limit for demolition and other works required. On this basis the appeal on ground (f) was withdrawn. The appeal on ground (g) would be successful to the extent that the time for compliance with the varied requirements would be increased from one calendar month to six weeks for requirements 1, 2 and 5 and to three months for requirements 3 and 4. The parties preferred this way of proceeding rather than a complete withdrawal of the appeal and reliance on the Council extending the time for compliance (which it can do at any stage during enforcement proceedings).

The Site and Surroundings

19. This is set out in summary form in the SOCG. The appeal site comprises about 6.23 hectares of largely open, vacant land at a location to the south of Canning Road, west of Manor Road and the adjoining Jubilee Line/DLR rail tracks, east of the Channelsea River and north of the District and Fenchurch Street tube/rail lines. West Ham Station lies immediately to the southeast of the site. It is irregularly shaped with a large, approximately square area at the eastern end and with a long finger of land extending west/south west that is consistently narrowing on that part of the site that falls between the Channelsea River and the national rail/underground railway lines to the south.
20. The appellant also owns Channelsea Island which is linked to the rest of the land by a dilapidated footbridge. For the purposes of the 'Masterplan' application (Appeal A), the redline site plan includes only the main mosque site; Channelsea Island is only included within the blue line (other land owned by the appellants). Newham Core Strategy Policy S10 also excludes the island from the area to which the policy applies.
21. Office and gatehouse buildings remain at the site, left over from the complex of buildings and structures related to the site's historic industrial use. These structures have since been added to, and now there are also some temporary single storey buildings and extensions. An area of approximately 6,400m² of hardstanding has been laid out in the north central area of the site and is used as a car park by attendees. Most of these temporary structures and the hardstanding were erected by the appellants without planning permission.
22. The site is located in the Lower Lee Valley, which is currently characterised by large areas of derelict industrial land and the appeal site is physically severed from the surrounding land by major infrastructure. It is an area that is planned for comprehensive transformation and redevelopment. Some work in connection with the 2012 Olympics occurred in the area with the 'under grounding' of some overhead power lines and associated pylons. One of those pylons was located on the appeal site.
23. The site is largely enclosed by railway lines, the elevated Greenway footpath and the Channelsea River. West Ham station to the south east incorporates a mainline rail station, a London Underground station and a Docklands Light Railway station. From this station there is a direct 11 minute National Rail train service into Fenchurch Street Station in the City of London as well as access to the District, Hammersmith & City and Jubilee underground lines. A new DLR station has also been constructed at Abbey Road about 400 metres to the north of the site's vehicular access. The DLR service connects Stratford International Station to the north with Canning Town and London City airport to the south.
24. The Jubilee line runs along the eastern boundary of the site at street level. The National Rail line and the District /Hammersmith & City lines run along the southern boundary of the site at a slightly raised level. The Greenway, a major sewage outfall is up on a raised embankment and is now a strategic permissive pedestrian and cycle route that runs along the northern boundary of the site. The Greenway is not a public right of way, however, Thames Water, as its owner, allows the public access; part of it was significantly upgraded in time for the 2012 Olympic Games. The stretch between West Ham station and Wick Road in Stratford was upgraded as part of these works to improve landscaping, create better 'way finding', to improve accessibility and to secure general refurbishment.

25. Sole vehicular access to the site is from Canning Road, a spur road running south off Abbey Lane to the north, which intersects with the Greenway just north of the site entrance. This vehicular access is shared with Channelsea House, the office block to the west of the site which is managed as a local business centre. The Channelsea River runs alongside the remainder of the western boundary of the site, beyond which lies the Lee Valley Park. Within the Lee Valley Park, just to the west, lies a listed Victorian pumping station, set within an industrial conservation area. Below ground there are two very significant sewers that traverse the site; the Lee Tunnel and the Newham Southern Sewer.

Main issues/Considerations for the Secretary of State

26. At the Pre Inquiry Meeting I set out what appeared to me to be the main issues between the parties. These were agreed and I produced a document at the formal opening of the inquiry setting out in detail the issues and points upon which the Secretary of State would need the parties' evidence and submissions in order to determine these appeals.⁴ These were again agreed and the parties set out their cases and closing submissions on the basis of these issues and the considerations contained therein.
27. There are four main points of contention between the parties. In no order of importance, (a) the impact of the development on the planned regeneration of the site; (b) the impact of the development on highway safety in the area; (c) the impact of the previous use of the land and (d) the impact of the development on the character and appearance of the area.
28. Relevant considerations in (a) are planned housing provision, employment opportunities, local centre and sports facilities, connectivity, convergence, need for this particular use and user, viability of the proposal and planned use and the continued use of the existing buildings on the site.
29. Relevant considerations in (b) are congestion, sustainability, pedestrian safety, parking and the impact of the use on the public transport network. Relevant considerations in (c) are the levels of contamination and the adequacy of the remediation measures (both existing and proposed)
30. Relevant to (d) are the status/weight to be given to the details submitted in what is only an outline application with parameter plans, the effect on the character, appearance and setting of the adjoining Conservation Area and also on the setting of the nearby statutory listed buildings.
31. Other matters to be considered are the adequacy of the Environmental Assessment; if harm is found, whether it can be satisfactorily mitigated by planning conditions and what is in the s106 undertaking.
32. Some of the above issues/considerations have relevance to Appeal B concerning the continued use of the existing buildings on site as well as to Appeal A. In particular the impact on highway safety and the effect of the previous use of the land.
33. Appeal C, the s174 appeal, was only made on grounds (f) and (g) where the remit of the decision maker is narrowly defined. As set out in the section on Procedural Matters above, the appeal on ground (f) was withdrawn and in respect of the appeal on ground (g) the parties agreed on a suitable time for compliance.

⁴ CD H56

Planning Policy

34. The development plan for the purposes of these appeals is the London Borough of Newham Core Strategy⁵ (NCS) adopted January 2012, the saved policies of the Newham Unitary Development Plan (UDP) adopted in 2006 and the London Plan (TLP) adopted in 2011⁶. There is also the emerging Revised Early Minor Alterations to The London Plan (REMA). The National Planning Policy Framework⁷ (the Framework) provides the national planning policy context and after the primacy of the adopted Development Plan is the chief material planning consideration as a matter of Government policy. In addition there is relevant supplementary planning guidance including the Mayor of London's Olympic Legacy Supplementary Planning Guidance⁸ (OLSPG) adopted in July 2012 and Planning for Equality and Diversity in London Supplementary Planning Guidance (PEDLSPG)⁹ adopted in October 2007¹⁰.
35. The site is subject to a site specific allocation under Policy S10 'Abbey Mills' of the Core Strategy¹¹. Policy S10 allocates the Site for a mix of residential (medium density, medium family) and employment uses, which may include an element of community uses (including faith based) of a scale which is proportionate and which does not dominate the overall mix of uses in respect of land take, scale and traffic generation. Policy S10 states that the site will contribute to the creation of a new local centre in the vicinity of West Ham Station and requires site access improvements, including a link to West Ham Station and facilitation of a possible future link to the Parcelforce site at Policy S11, which is allocated for an employment-led mixed use scheme¹².
36. The NCS promotes an 'Arc of Opportunity' as a focus for regeneration and growth (Policy S1). Development within this area, in which the site is located, is intended to secure transformational change for the Borough¹³. The policy requires that development should be accompanied by supporting infrastructure and should create new and rejuvenated communities through investment and improved access to jobs, business opportunities, homes and services. New and enhanced open spaces and walking/cycling routes are also promoted.
37. Policy H1 of the Core Strategy¹⁴ seeks the provision of new homes, including in particular the provision of 39% of new homes being 3 bed homes for families, to help meet the Borough's target of 40,000 homes in the plan period (2011-2027). Policy H2¹⁵ relates to the provision of affordable housing and seeks all new developments to provide between 35-50% of the units proposed as affordable housing. Further policies in the Core Strategy seek to promote the provision of sports facilities (SP2), green infrastructure (INF6), enhancement of the Blue Ribbon network (INF7), community facilities (INF8 and INF9) and new and enhanced social and green infrastructure (S1). Policy SC4¹⁶ calls for areas, which include the Channelsea River, to be supported with development contributing to their qualitative enhancement including improvements to access.

⁵ CD H33

⁶ Proof of Mr Weatherhead APT7.1a para. 5.2

⁷ CD D1

⁸ CD D5

⁹ CD D6

¹⁰ Proof of Mr Weatherhead APT7.1a para. 5.2

¹¹ CD H33 p. 50

¹² CD H33 p. 50

¹³ CD H33 p. 35

¹⁴ CD H33 p. 126

¹⁵ CD H33 p. 130

¹⁶ CD H33 p. 145

38. The OLSPG¹⁷ specifically calls for the vacant and underused sites around West Ham Station to be brought back into permanent use and provide housing as well as community and employment uses. The OLSPG echoes the mix of uses promoted in the Core Strategy, whilst adding that the site could also potentially accommodate family housing possibly fronting the Channelsea River. It notes, however, that employment and community uses will be prominent, particularly near the station and substantial industrial contamination will need to be remediated and new and enhanced connections created into and across the area¹⁸.
39. The PEDLSPG¹⁹ states that the promotion of equality of opportunity is a theme underlying the majority of policies in the TLP. Faith groups are identified as target equality groups, which are likely to require specialised service provision, including facilities for cultural practices, community activities and provision for places of worship that are easily accessed by the communities which require them²⁰. The PEDLSPG also acknowledges that models of religious worship are changing and that large congregations are developing in some faiths. It specifically recognises that these congregations require large spaces to accommodate all worshippers in their services and in many cases experience difficulty in finding appropriate sites²¹.
40. Paragraph 111 of the Framework²² advises that planning authorities should encourage the effective use of land by re-using land that has been previously developed provided that it is not of high environmental value, with the presumption of sustainable development running through the Framework as a golden thread through plan making and decision taking. In the context of sustainable development, paragraph 187²³ states that planning authorities should look for solutions rather than problems and advises that decision takers at every level should seek to approve applications for sustainable development wherever possible.
41. Paragraph 70 of the Framework²⁴ advises that planning decisions should plan positively for community facilities such as places of worship and guard against the unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs Paragraph 73²⁵ advises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities.
42. Paragraph 14 of the Framework²⁶ provides that, in relation to decision taking, the presumption in favour of sustainable development means approving development proposals that accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out-of-date, granting planning permission unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.

¹⁷ CD D5

¹⁸ CD D5 p. 51

¹⁹ CD D6

²⁰ CD D6 p. 85

²¹ CD D6 p. 87

²² CD D1 p. 26

²³ CD D1 p. 45

²⁴ CD D1 p. 17

²⁵ CD D1 p. 18

²⁶ CD D1 p. 4

Planning History and Background

43. This is set out in summary form in the SOCG. The site was formerly used for the production of chemicals (by RTZ), a use that commenced in the late nineteenth century. This ceased in the late 1980s and the site was partly cleared. The gatehouse building and the two storey main office were retained, but all the other buildings on the site were demolished. Given that historical use, the site was heavily contaminated and some interim remediation works were undertaken in the early 1990s. However, the application for remediation in 1992 was never approved by the Council, and although some of the works have been undertaken, the extent of the remediation works was unknown to both the Council and the Environment Agency at the time.
44. Anjuman-e-Islahul Muslimeen (London) of the UK Trust (the appellants) purchased the site from RTZ in 1996. There is no record of any discussion between the appellants and the Council taking place before the acquisition. It became apparent subsequently that the intention of the appellants was to establish the site solely as a Muslim foundation, incorporating a mosque and supporting uses.
45. Planning applications were submitted to the Council on 31st August 1999. These sought consent for the change of use of the existing buildings to worship purposes and outline approval of a 'Masterplan' for the site's development (Council references 99/1016 and 99/1017).²⁷ The applications were refused in March 2001 on grounds of: i) principle; ii) regeneration; iii) access; and iv) traffic generation.²⁸
46. On 3 January 2001 the Council received a planning application for a temporary portal frame structure to be erected for use as a prayer hall and meeting room (Council reference: 01/0034).²⁹ This was refused by the Council in March 2001 and the subsequent appeal against that decision was eventually withdrawn.
47. Either just before or following the March 2001 refusal of planning permissions the appellants erected a series of extensions without planning permission to the retained two-storey office block at the site. In addition to the lack of planning permission, no consent under building regulations was sought. The whole of the extended building was used for worship purposes.
48. On 4 June 2001, a planning application (Council reference P01/0742) for the office block and the extensions referred to in the paragraph above was submitted.³⁰ The application was for permanent permission to retain the extensions and to use the whole extended building as a place of worship. The application did not include a toilet block and related structures adjacent to Crows Road at the southern end of the site, which had been also erected previously without permission.³¹
49. In October 2001 the Council resolved to grant planning permission for a period of 5 years subject to the satisfactory completion of a S106 Agreement covering the normal code of practice on meeting places. The S106 was duly signed and the decision was then issued.³²

²⁷ LBN 5.3

²⁸ LBN 5.5

²⁹ LBN 5.9 – 5.11

³⁰ LBN 5.13

³¹ LBN 5.14

³² LBN 5.19

50. In addition the appellants also agreed to a Memorandum of Agreement (MOA) dated 15th October 2001. This Agreement related to the planning application (P/01/0742) and included commitments on both the Council and the appellants towards securing and delivering a more long term policy compliant redevelopment of the site.³³
51. In December 2001 an application for the retention and further extensions to the buildings was submitted. These works proceeded before the application was determined and further works (the creation of the car park area) also commenced whilst the proposal was under consideration. The application was withdrawn a few days before the Council meeting that was due to consider it (it had been recommended for refusal) but the enforcement action that was also recommended (both for the works the subject of the application and the car park) was approved.
52. Two enforcement notices were issued and the appeals against them were dismissed in July 2003 with the time for compliance (to remove the extensions, the buildings and the car park) confirmed at three months. The Council took no prosecution action regarding the failure to comply with the requirements.
53. Applications were re-submitted at the end of 2003 (November) for both developments and in April 2004 temporary planning permissions were granted expiring on 1 November 2006 subject to various conditions. The expiry date was determined to coincide with the expiry date of the temporary permission granted in October 2001 (paras 52 & 53 above). Some of the conditions were not complied with. An invalid outline application was also submitted in October 2003 for the 'Masterplan' but this was never formally registered or considered.
54. Various meetings were held in 2007 and 2008 between the Council and the appellants and/or their advisors as all temporary permissions had expired on 1 November 2006 and no 'Masterplan' application had been submitted. In April 2009 the appellants were advised that any further requests for temporary permissions were not acceptable. In July 2009 they were advised that unless there was meaningful progress on the 'Masterplan' by the end of the year enforcement action to prohibit the use was likely to be pursued by the Council to achieve the removal of the uses and operational development that had taken place.
55. An enforcement notice was issued in February 2010 requiring the cessation of the use and removal of buildings and the car park. Following an appeal against that notice (determined by Inquiry in February 2011) a further temporary planning permission was granted for two years (expiring in May 2013). Part of the case put forward and much debate at the Inquiry again centred on the 'Masterplan' to be submitted and a Unilateral Undertaking was provided giving further assurances to that course of action.
56. Three matters were covenanted in that undertaking - (i) the application would be submitted within 12 months; (ii) the application would have proper regard to the adopted and emerging policies in the Development Plan and (iii) the application would provide a genuine mix of uses that will be of benefit to the wider community. In the absence of what had been covenanted the appellants agreed to cease the use, remove the parking area and demolish the buildings.

³³ LBN 5.20

57. In the absence of any application being submitted the Council instigated legal proceedings and an injunction was granted in May 2013. The appeal against that was heard in the Court of Appeal on 30 April 2014 and judgement has been reserved pending the outcome of these planning appeals.
58. A purported 'Masterplan' outline application had been submitted in February 2012 but this just had a red line around the appeal site. All outstanding information was eventually submitted in September 2012 and the application was validated. This application is the subject of Appeal A. In May 2013 an application was submitted to vary the time limited condition attached to the temporary permission granted on appeal in 2011. That application was refused and is the subject of Appeal B. Following the expiry of that 2011 temporary permission in May 2013 the Council, in July 2013, issued an enforcement notice alleging a breach of the time limiting condition; that notice is the subject of Appeal C.

Other Agreed Facts

59. The appellants acknowledged from the outset that the proposed development applied for in Appeal A was contrary to the site specific policy (Policy S10) in the extant Development Plan. They accepted that planning permission could only be granted if there were sufficient other material considerations in favour of the proposed development to outweigh the objections and justify granting permission for a development that was harmful to the objectives of Policy S10.

The Proposals

60. Appeal A is an outline application - with all matters reserved for subsequent approval apart from the layout - for the continued use of the existing buildings on site as a mosque; the demolition of those existing buildings and the construction of a mosque and ancillary facilities (including 8 accommodation units for guests and imam, library and dining hall) including the temporary use of the existing facilities as a mosque during part of the construction phase; a multi-use games area, tennis courts, a sports pavilion and open space together with associated access, parking and landscaping.
61. The scheme proposes a mosque with a capacity for approximately 9000 worshippers, including a dedicated prayer space within it for women. The public open space will generally be open to everyone with 24 hour access available providing a link between Canning Road in the north (the current vehicular and pedestrian access to the site) and Crows Road and thereby to the Parcelforce site to the south and West Ham station to the east the latter across, a currently, unused bridge over the railway/underground lines.
62. Appeal B is an application for the renewal of temporary permission (granted on appeal on 23 May 2011) for the continued use of the existing land and buildings (including the retention of all buildings) as a place of worship for a period of two years. The previous permission expired in May 2013. Appeal A also provides for the continuation of the use of the existing buildings pending the completion of Phase 1 of the development.
63. The application the subject of Appeal B was not submitted to duplicate what is in Appeal A. It is put forward on the basis that if the other two appeals (A and C) are dismissed, there would be a need for the appellants to take stock and consider all options. Whatever was decided as a future course of action there would be a need to accommodate the existing congregation until alternatives were sorted out and as there were no other sites immediately available, a temporary permission to remain on the appeal site is sought.
64. Appeal C is a s174 appeal against an enforcement notice issued in July 2013 requiring the cessation of the use, the removal of the buildings and the excavation and treatment of that part of the land used as a car park. No fee was paid, as required by the legislation at the time the appeal was made, and there is, therefore, no deemed planning application to be considered; only the appeals on grounds (f) and (g) remain to be determined.

The Case for the Appellants

Introduction

65. The appellants are an international grass roots Muslim movement founded in 1926 in India and the UK branch was founded in East London in 1944. The key characteristic of this movement – the largest peaceful Muslim movement in the world – is its emphasis on congregational gatherings of prayer and scholarly lectures held weekly on a Thursday ('Shab e Juma') and larger yearly or twice yearly gatherings in the form of 'Ijtamas'. These are in addition to the usual Friday prayers held by every mosque – and indeed held at the Riverine Centre.³⁴
66. The structure of Tablighi Jamaat in the UK involves the division of the country into eight Regions, each centred on a regional Markaz (or centre).³⁵ There are also smaller sub regions (halaqas). As detailed in the evidence, the appellants own the appeal site, having bought it in 1996, through donations, for the purpose of using the site as the Markaz (or regional centre) for the London and South East Region of Tablighi Jamaat.³⁶ This had followed extensive investigations of other potentially appropriate sites in London.³⁷ The Riverine Centre, albeit in cramped and unsatisfactory buildings, has diligently served the Tablighi Jamaat community for some 18 years but that community has outgrown those buildings – never satisfactory in themselves – and a proper, permanent solution is now an urgently pressing matter.
67. Not every Muslim follows Tablighi Jamaat – rightly translated as 'The *Effort* of Tabligh' – but some 406 mosques in the region are affiliated to the effort.³⁸ Dr Sennett estimates some 12,500 regular (that is, at least monthly) attendees of the Riverine Centre.³⁹ The appeal site, therefore, serves a local catchment as a mosque for Friday prayers, and a local, metropolitan and regional catchment, as the central regional Markaz for that 12,500 congregation. With its accessibility to the public transport network of the capital the site, itself, is ideally located.⁴⁰
68. Friday prayers are essential to all mosques and attendances average around 700 people. The appellants in addition organise and hold larger congregational events. Those taking place on a weekly basis occur on a Thursday evening (Shab e Juma), involve prayers and scholarly lectures and attract 2,000 – 3,000 people (depending on the speakers) and then once or twice a year there are large gatherings (Ijtamas) attracting 6,000 to 7,000 people. The London and South East Ijtamas have for many years been held Dewsbury in the Midlands and are expected to attract around 9,000 people including a significant proportion of women not currently accommodated on the site.⁴¹
69. The construction scheme before the Secretary of State is about providing an appropriate building to manifest that purpose – a building of sufficient capacity to accommodate the prayer needs of the estimated 9,000 attendees of the regional Ijtamas. It is also a building of sufficient stature and grace; a building of which Newham, London and the country (Muslim and non-Muslim) can

³⁴ APT 3.1b para. 6.3 - 6.5

³⁵ APT 3.1b Appx 6 para. 3.17

³⁶ APT 3.1b Appx 6 para. 5.3

³⁷ APT 3.1b Appx 6 para. 5.1

³⁸ APT 3.1a para. 6.30

³⁹ APT 3.1a para. 6.28

⁴⁰ APT 4.1a para. 4.17

⁴¹ CD H31 paras 4 & 5

genuinely be proud.⁴² To use the words of Vision for Newham 2027, it will be a 'beacon' of excellence, symbolizing Newham's regeneration and London's inclusiveness.

70. The site is located in a London Borough that has one of the region's largest and also fastest growing Muslim populations. Having the regional centre (Markaz) here is ideal to serve London and the whole of the south east region. It is close to West Ham Station (national rail, Docklands Light Railway (DLR) and London Underground) and Abbey Road (DLR) station is a short distance to the north. There have also been improvements to the public transport system in the area associated with the London Olympics in 2012 such that it is agreed the site has a PTAL rating (Public Transport Accessibility Level) of 6a. It is therefore ideally suited to serve both local and regional demand for access by sustainable transport means.
71. The site is mainly cleared former industrial land which the Council wants redeveloped and currently it makes no positive contribution to the local environment. It is within an 'Arc' of Opportunity desired for significant regeneration following the 2012 Olympics held nearby. It suffers from significant contamination due to past uses and it looks to be in a bleak, unappealing condition in desperate need of a beneficial use.
72. These factors – a site centrally placed in relation to the population it serves, large enough to cater for the need arising, a blighted site in need of regeneration and benefitting from good public transport access make this site uniquely suited for the proposed use. In addition the appellants bring very significant private investment, a vibrant community use, a set of buildings of high aesthetic and architectural quality and a publicly accessible sports and amenity facility.

Development Plan and Policy considerations

73. The site is subject to a site specific allocation under Policy S10 'Abbey Mills' of the Core Strategy.⁴³ Policy S10 allocates the site for a mix of residential (medium density, medium family) and employment uses, which may include an element of community uses (including faith based) of a scale which is proportionate and which does not dominate the overall mix of uses in respect of land take, scale and traffic generation. Policy S10 states that the site will contribute to the creation of a new local centre in the vicinity of West Ham Station and requires site access improvements, including a link to West Ham Station and facilitation of a possible future link to the Parcellforce site at Policy S11, which is allocated for an employment-led mixed use scheme.⁴⁴
74. Policy H1 of the Core Strategy⁴⁵ seeks the provision of new homes, including in particular the provision of 39% of new homes being 3 bed homes for families, to help meet the Borough's target of 40,000 homes in the plan period (2011-2027). Policy H2⁴⁶ relates to the provision of affordable housing and seeks all new developments to provide between 35-50% of the units proposed as affordable housing. Further policies in the Core Strategy seek to promote provision of sports facilities (SP2), green infrastructure (INF6), enhancement of the Blue Ribbon network (INF7), community facilities (INF8 and INF9) and new and enhanced social and green infrastructure (S1). Policy SC4⁴⁷ calls for

⁴² DAS CD A18 p. 7

⁴³ CD H33 p. 50

⁴⁴ CD H33 p. 50

⁴⁵ CD H33 p. 126

⁴⁶ CD H33 p. 130

⁴⁷ CD H33 p. 145

- areas, which include the Channelsea River, to be supported with development contributing to their qualitative enhancement including improvements to access.
75. The Mayor of London's OLSPG⁴⁸ specifically calls for the vacant and underused sites around West Ham Station to be brought back into permanent use and provide housing as well as community and employment uses. The OLSPG echoes the mix of uses promoted in the NCS, whilst adding that the site could also potentially accommodate family housing possibly fronting the Channelsea River, but noting that employment and community uses will be prominent, particularly near the station and substantial industrial contamination will need to be remediated and new and enhanced connections created into and across the area.⁴⁹
76. The Mayor's PEDLSPG⁵⁰ states that the promotion of equality of opportunity is a theme underlying the majority of policies in the TLP. Faith groups are identified as target equality groups, which are likely to require specialised service provision, including facilities for cultural practices, community activities and provision for places of worship that are easily accessed by the communities which require them.⁵¹ The PEDLSPG also acknowledges that models of religious worship are changing and that large congregations are developing in some faiths. It specifically recognises that these congregations require large spaces to accommodate all worshippers in their services and in many cases experience difficulty in finding appropriate sites.⁵²
77. In this regard, it should be noted that policy 3.16 of the TLP: Protection and Enhancement of Social Infrastructure⁵³ states that London requires additional and enhanced social infrastructure to meet the needs of its growing and diverse population. The policy advises that development proposals which provide high quality social infrastructure will be supported in light of local and strategic needs assessments and that proposals which result in the loss of social infrastructure in areas of defined need without realistic proposals for re-provision should be resisted. Further, policy 3.1 of the TLP⁵⁴ advises that boroughs may wish to identify significant clusters of specific groups and consider whether appropriate provision should be made to meet their particular needs such as cultural facilities, meeting place or places of worship.
78. Paragraph 111 of the Framework⁵⁵ advises that planning authorities should encourage the effective use of land by re-using land that has been previously developed, provided that it is not of high environmental value, with the presumption of sustainable development running through the Framework as a golden thread through decision making. In the context of sustainable development, paragraph 187⁵⁶ states that planning authorities should look for solutions rather than problems and advises that decision takers at every level should seek to approve applications for sustainable development wherever possible.
79. The Framework advises that planning decisions should plan positively for community facilities such as places of worship and guard against the

⁴⁸ CD D5

⁴⁹ CD D5 p. 51

⁵⁰ CD D6

⁵¹ CD D6 p. 85

⁵² CD D6 p. 87

⁵³ CD H34 p. 102

⁵⁴ CD H34 p. 76

⁵⁵ CD D1 p. 26

⁵⁶ CD D1 p. 45

unnecessary loss of valued facilities and services, particularly where this would reduce the community's ability to meet its day to day needs.⁵⁷ Paragraph 73⁵⁸ advises that access to high quality open spaces and opportunities for sport and recreation can make an important contribution to the health and wellbeing of communities.

80. Paragraph 14 of the Framework⁵⁹ provides that, in relation to decision taking, the presumption in favour of sustainable development means approving development proposals that accord with the development plan without delay. Where the development plan is absent, silent or relevant policies are out of date, granting planning permission unless adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
81. This test appeared a little lost on the Council's planning witness, who asserted that for a scheme to be acceptable, it must demonstrate benefits over and above any harm.⁶⁰ Plainly, and as accepted by the witness, even in the absence of this 'tilted scale', s. 38(6) still requires that any conflict with development plan policies be considered in the light of other material considerations.⁶¹

Main Planning issues/considerations

82. The Inspector identified four main issues at the start of the inquiry, within which there are a number of sub-issues (see p11 of this report). The appellants respectfully agree that these issues and their sub-issues covered the matters that were for debate albeit that a number were resolved between the parties. These four main issues and their sub issues are dealt with in turn below for each appeal.

Appeal A – outline application

83. Conspicuously (and rightly) missing from the Inspector's main issues is the matter of the particular form of Islam practiced at the Riverine Centre. Matters of social inclusiveness and social cohesion can be material considerations in the right circumstances. That does not mean that the beliefs and practices of Tablighi Jamaat (as opposed to the beliefs and practices of other branches of Islam – or other religions for that matter) are material planning considerations in this case.
84. The Council very properly acknowledged that the form of Islam practiced by the attendees of the proposed development is not material to this case. Newham Concern Limited ['NCL'], a Rule 6 Party – an organization with no formal membership, but formed to oppose the scheme - alleged that it was, but singularly failed to identify any manifestation of planning harm arising from the aspects of the Tablighi Jamaat belief-system or practices to which it, apparently, takes such exception. NCL's evidence contained some derogatory comments about Tablighi Jamaat and its followers.
85. There was evidence, however, of the courtesy and kindness extended even to those who viscerally disagree (often on a mistaken basis) with the practices and teachings of Tablighi Jamaat. That characteristic of welcoming courtesy to

⁵⁷ CD D1 p. 17 para. 70

⁵⁸ CD D1 p. 18

⁵⁹ CD D1 p. 4

⁶⁰ Sahadevan xx CBQC, Day 4; he fared better under Inspector's questions, but it is indicative of his approach when considering the recommendation to committee and, indeed, formulating the evidence in his proof.

⁶¹ Sahadevan xx CBQC, Day 4

non-believers, even opponents, is echoed, too, in the findings of the Enforcement Inspector, when he declined to place weight on NCL's arguments at the Enforcement Inquiry. If this highest complaint is that the followers of Tablighi Jamaat 'put attaining paradise before engagement with this world'⁶² it is to be wondered why there should be such an objection to them.

A. Impact on the planned use of the site (Policy S10)

86. Reason for Refusal 1⁶³ is complex. At its base, however, is a complaint that there is a site specific policy whose aspirations are not being delivered by the proposal and that there is material planning harm as a result. It is necessary to consider, therefore, not only the weight to be attached to this policy *per se* as a part of the s.38(6) development plan, but also to the material considerations of what actual harm arises if S10 is not fulfilled (and the weight to be attached to that), as well as what benefits arise from developing the site in the way envisaged. Integral to this issue is consideration of what S10 can realistically be expected to deliver and what, therefore, actually is 'forgone' by developing the site in a different way.⁶⁴
87. The key elements of S10 are: (1) mix of residential (medium density/medium family⁶⁵) and employment; (2) contribution to a new local centre in the vicinity of West Ham Station; and (3) site access improvements, including a link to West Ham Station and facilitation of a possible future link to the Parcelforce site S11. There is no objection, in principle, to a faith-based use on the site, but it is not to 'dominate'.⁶⁶
88. The appellants' case is that the full S10 aspirations are simply not viable, and, anyway, the site is required for a different beneficial use in order to satisfy the community need for a place of worship. A remarkable aspect of the evidence led by the Council is that, in order to seek to produce a notional scheme showing a positive land value, it has had to declare its hand on its views both as to the deliverability and the nature of a number of the S10 aspirations in practice.⁶⁷
89. The Council use the term 'a policy-compliant scheme'. It is a moot point whether the notional schemes assessed in viability terms by Mr Lee can really claim such an accolade (despite receiving the imprimatur of Messrs Sahadevan and Woodburn – for the purposes of this inquiry at least). For short-hand, therefore, we call this 'the Council's S10 scheme'. It is, of course, a wholly notional exercise put together by the Council to try to prove a point. Hypothetical and unrealistic as it may be, this notional S10 scheme does help the Secretary of State, immensely, in answering the question: 'what would be foregone?' The answer is, in the appellants' view 'precious little'.
90. The Inspector's first main issue contains eight sub-issues embracing these matters, together with the question of 'convergence', viability, need and the continuation of use of the existing buildings. These are discussed below.

⁶² Taylor x, Day 5

⁶³ CD F36

⁶⁴ All accepted by Mr Sahadevan, xx CBQC, Day 4

⁶⁵ This translates as 4-6 storey blocks at no more than 700hr/ha and 30% 3+ bedroom units.

⁶⁶ Although 'why?' is left unanswered.

⁶⁷ See, variously, Lee, Sahadevan and Woodburn on this

A.1 Planned housing provision

91. The Council's S10 scheme shows 800 units if it is to be medium density/medium family housing.⁶⁸ Thus, the 'headline' figure for housing 'foregone' is 800 units. That figure assumes, however, that housing as a land use is viable at all on the site, a matter returned to below. It is Mr Stephenson's considered opinion that this site would not attract market interest. On that basis, there is no housing foregone.
92. It is worth, in any event, exploring the context and nature of the 800 units envisaged by the Council in its S10 compliant scheme. Firstly, reason for refusal 1⁶⁹ complains⁷⁰ that the appeal proposal would prevent 'family housing and affordable housing'. In fact, when Mr Lee came to put his scenarios together, he was advised that a 'policy-compliant' S10 scheme could be satisfied by 247 family units and no affordable housing.⁷¹ The 'family' and 'affordable' housing (theoretically) foregone, therefore is, respectively, 247 units and zero.
93. Secondly, as Mr Sahadevan's Erratum Note⁷² shows, even the full 800 is a very small proportion of the Council's expected delivery⁷³ and its entire removal would still leave the projected delivery (41,193⁷⁴) in surplus compared to the requirement (40,000⁷⁵). While it is correct that the requirement is a minimum, the weight to be attached to the 'foregoing' of the 800 (even if realistic) must consequently be lessened by the fact that on its own projections, the Council will still exceed its targets.⁷⁶ In short, the Appeal site is not actually *needed* to contribute to housing numbers.
94. Thirdly, it appears, in any event, that there is a significantly greater pipeline of residential development coming forward than even that recognised in the Core Strategy allocations. Both Mr Stephenson⁷⁷ and Mr Weatherhead⁷⁸ gave evidence as to the expected additional sources of housing numbers, including but not limited to the Stratford Masterplan.⁷⁹ This is now further boosted by the Chancellor's Mansion House Speech and the Mayor's response.⁸⁰ If implemented, this will unlock yet further swathes of brownfield land for housing development across London, still further reducing the need for this site to produce its planned 800 units.
95. Fourthly, there is, in any event an adjacent site (S11, the Parcelforce site) owned by the GLA and coming forward for a residential-led 2,500-3,000 unit development rather than the 'employment-led' development in its allocation. That site, alone, would more than make up for the notional 800 'lost' on the appeal site.
96. It was one of the Council's more obviously perverse positions that its witness indicated that he would resist such a scheme on the grounds that S11 was an employment-led allocation. This position was despite both his acceptance that

⁶⁸ There is an assessment at 1000 units, but only by virtue of stripping away 3 bed units – not on viability grounds, but to increase unit numbers while staying at 700 hr/ha: see Lee proof p. 14, para. 5.4 and Lee xx CBQC, Day 3

⁶⁹ CD F.36

⁷⁰ RRef 1(b)(i)

⁷¹ See Lee proof 5.5 1st bullet ['scenario A'] and Table 5.5.1 (p. 15).

⁷² LBN 5.64

⁷³ 2% or 4% depending on whether the LLDC area is taken into account; Sahadevan xx CBQC, Day 4

⁷⁴ CD H33 p.127

⁷⁵ CD H33 p.127

⁷⁶ Sahadevan agreed, xx CBQC, Day 4

⁷⁷ APT 5.1A Section 10

⁷⁸ APT 7.1A para. 6.7 and x CBQC, Day 10

⁷⁹ APT 5.1A para. 10.1

⁸⁰ CD H38

(i) employment land was not needed, was in surplus and (according to Mr Lee's own evidence) Class B uses would simply not be occupied, and also (ii) his continued assertion that there was a desperate need for additional housing so great a need that the appeal site must not be lost to that use.⁸¹ However unrealistic such a stance would be at first instance and/or on appeal⁸², its prospects of being maintained in the light of the Mansion House announcements must be reduced to vanishing point. We can expect, therefore, on S11 – and on other currently restricted sites – to see more housing provided where the site specifics make it viable.

97. All of this indicates that there is nothing of substance which is 'foregone'. The 800 units are unrealistic in themselves, but also not needed on this site and can be expected to be provided elsewhere. Moreover, were conditions ever to alter to make housing on the site a viable proposition, the site Masterplan was formulated, as a matter of chronological sequence, to provide for housing as well as a mosque. That housing could be reinserted into the Masterplan, were in the future it to transpire that the site was both needed and viable for that use.⁸³ In truth, therefore, housing is not forgone, or not materially so.
98. What is provided, by contrast, is a beneficial use of the site now (rather than an unrealistic hope to be put off until 2017 or 2027) which brings about its regeneration while not preventing housing should that ever be viable in the future.

A.2 Planned employment opportunities

99. Policy S10 requires mixed use development of residential and employment.⁸⁴ There is to be a contribution to a new local centre and there may be some faith based use as part of that. Supporting text emphasises the importance of jobs.⁸⁵ Reason for Refusal 1 couches the complaint in terms of preventing the creation of jobs and employment growth.⁸⁶ Mr Sahadevan similarly expresses the complaint as employment foregone.⁸⁷
100. One might from that, envisage a significant level of employment (that is 'B' class uses) with their job creation potential, would be required for a 'policy compliant' scheme. However, the schemes assessed by Mr Lee contain just 2,850 m² of 'commercial' use⁸⁸, by which he is to be taken to mean not employment uses in the ordinary sense, but A1 retail, on the ground floor of mixed use blocks as part of the local centre.⁸⁹ That amounts to just 3% of the total floor space for 'commercial' uses and those uses not of the B classes one might have expected.⁹⁰
101. The perhaps surprising acceptance of 3% retail as fulfilling the policy requirement for a mixed use residential and employment scheme is just one of many apparent 'relaxations' Mr Sahadevan has appeared willing to make in order to find a 'compliant' scheme with a positive residual land value. It cannot

⁸¹ Whether this was just an example of the Council's general 'policy says no' attitude or a desperate attempt to hang onto the notion of a 'loss' at the appeal site, it did the witnesses credibility as a planner and a witness no good at all.

⁸² And thank goodness we have an appeal system.

⁸³ The suggestion that the Council would then resist the replacement of the [on its case] not needed open space with [on its case] more needed housing in just a further example of the perverse attitude to decision taking and/or a 'policy says no' inflexibility of mind-set, Sahadevan xx CBQC, Day 4.

⁸⁴ CD H.33, p. 50

⁸⁵ CD H.33, p. 42

⁸⁶ CD F36, RRef 1(b)(ii)

⁸⁷ Sahadevan proof 5.40-5.47

⁸⁸ Lee proof 5.3 and Appx e.g. 2.2

⁸⁹ Sahadevan proof

⁹⁰ Lee xx CBQC, Day 3

seriously be contended that such an outcome was intended when S10 was drafted⁹¹.

102. Be that as it may, this 3% retail was forced upon the Council by the recognition by Mr Lee that 'Class B' uses are in surplus in the Borough, there is neither need nor demand for them and, if built, they would stay empty⁹². The only commercial element on site, therefore, for which the Council contends there is some realism is 2,850m² of A1 – providing some 135 jobs⁹³. That is the employment notionally 'foregone'.
103. We say 'notionally' because there is no evidence that such uses would ever be attractive to retailers or be occupied. Mr Stephenson had included retail as part of the mixed use scheme he had assessed (and found unviable)⁹⁴, but that scheme assumed a vehicular link over Manor Road, as provided for in the S10 site boundary, and hence through traffic through the site to Canning Road. It was also in the context of a much larger local centre with some 144,900ft² employment uses⁹⁵.
104. By virtue, as we shall see below, of the Council now deciding that policy does not require a second vehicular access point for a mixed use scheme, the relic 'local centre' envisaged in Mr Lee's schemes finds itself divorced from any public visibility or passing trade. It sits at the far end of a cul-de-sac from Canning Road, hard against the railway tracks in the south east corner of the site. Mr Stephenson was firmly of the view that it would not find occupiers and would not be built.⁹⁶ Thus the 'employment foregone' is not even the 135 retail jobs arising from Mr Lee's floorspace. These would be, in truth, illusory.
105. The employment provided, however, by the scheme is 231 jobs⁹⁷ in the construction of an estimated £137m regeneration project.⁹⁸ That is a real figure and a significant boost to the economy and to private-sector investment in this part of London, which, all parties agree, badly needs regeneration. It is a level of investment and jobs which comes from granting the permission sought. S10, for reasons set out below, cannot be expected to provide any jobs as the land would simply remain in its current desolate and derelict state.

A.3 Planned West Ham Local Centre

106. Reason for Refusal 1 complains of breach of policy S10 because 'the proposal would not contribute to the creation of a new local centre in the vicinity of West Ham Station'.⁹⁹ It alleges harm in that the scheme is said to 'prevent' the creation of a 'new local centre in the vicinity of West Ham station'¹⁰⁰. Much is made of this in Mr Sahadevan's proof.¹⁰¹ However, in accepting that Mr Lee's 2,850m² retail uses could form 'part' of a local centre, Mr Sahadevan was obliged to recognise that there was no policy requirement to have the local centre on the S10 site, itself. It could just as well go on the S11 site, provided, he said, there were appropriate linkages.¹⁰²

⁹¹ Sahadevan xx CBQC, Day 4

⁹² Lee xx CBQC, Day 3

⁹³ See APT 5.1.16 and accepted Lee xx CBQC, Day 3

⁹⁴ Stephenson Reb Appx 1

⁹⁵ Stephenson Reb Appx 1

⁹⁶ Stephenson xx DCQC, Day 9

⁹⁷ APT 7.1A para. 6.51

⁹⁸ Ibid.

⁹⁹ CD F.36, RRef 1(a)(iii)

¹⁰⁰ CD F.36, RRef 1(b)(iii)

¹⁰¹ Sahadevan proof para. 5.48-5.50

¹⁰² Sahadevan proof para. 5.49

107. In the stroke of a pen,¹⁰³ Mr Sahadevan had given away Reason for Refusal 1(b)(iii) – the appeal proposal is not required to provide a local centre and so non-provision on site does not prevent one coming forward. Next, in the Council’s anxiety to free its ‘S10 compliant’ scheme of the £16.5m cost attendant on re-opening Crows Road and crossing Manor Road (the consequence of which, in viability terms, would have been devastating to its case), Mr Sahadevan’s Supplementary proof, rather tardily,¹⁰⁴ announced that the Council accepted that it had a statutory duty to re-open Crows Road Bridge (albeit to pedestrians and cyclists) and both could do so and would do so.¹⁰⁵
108. This meant that Mr Sahadevan could no longer allege that the appeal scheme did not provide for the improved link to West Ham Station. It had always been shown as a link, subject to the bridge being re-opened (a matter beyond the Appellant’s control and entirely in the gift of the Council). Given that the land to facilitate the re-opening of the underpass to S11 was always reserved within the appeal scheme, the whole of the allegation in Reason for Refusal 1(a)(iv) was always a false one.
109. Mr Sahadevan was obliged to accept this¹⁰⁶, and with it was obliged to accept, not only that the appeal scheme did not ‘prevent’ a local centre (contrary to that alleged), but that it also, by providing or facilitating the required links, positively contributed to the creation of a local centre (again, contrary to that alleged). On the evidence of Mr Sahadevan, this point falls away, therefore. Mr Weatherhead also agreed¹⁰⁷ that the scheme did not prevent that which it was not obliged to provide, and, by contrast, did contribute to a local centre by providing or facilitating the links, as acknowledged by Mr Sahadevan.
110. On the evidence before the inquiry, therefore, the issue is closed. It only remains to observe that it is regrettable that the allegation was made at all – or at the very least pursued in evidence when Mr Sahadevan, we were told¹⁰⁸ had decided about 3 months ago that the Council would be re-opening Crows Road bridge (he must always have known that the underpass to S11 was safeguarded).¹⁰⁹

A.4 Permeability

111. Reason for Refusal 1(a)(iv) complains that ‘the proposal would not deliver site access improvements, including a link to West Ham Station and facilitation of a link to the Parcelforce site.’ As set out above, the scheme always facilitated a link to the Parcelforce site, by safeguarding land in the ownership of the Appellants for that purpose. That allegation, therefore, was always without foundation.
112. Further, the scheme always provided for the possible future access from Crows Road,¹¹⁰ but recognised that this was in the gift of the Council. It was not the appeal proposals, therefore, which ‘would not deliver’; it was the Council. The Appellants had been asking the Council to re-open the bridge since 2010.¹¹¹ It had not done so, and it had not intimated that it would do so until the first day

¹⁰³ Or word-processor

¹⁰⁴ The first day of the inquiry

¹⁰⁵ Something the Appellants had been seeking assistance with since 2010 – see Fosters letter Appx to Sahadevan Supplementary

¹⁰⁶ Sahadevan xx CBQC, Day 4, albeit with a very long struggle as he looked on maps to try to find some other ‘required’ linkage, but eventually gave up.

¹⁰⁷ Weatherhead x, Day 9

¹⁰⁸ By Mr Woodburn (Woodburn xx(1) CBQC, Day 2

¹⁰⁹ See application drawing D005 and D008, CD B51

¹¹⁰ See application drawing D005 and D008, CD B51

¹¹¹ Fosters letter as Appx to Sahadevan Supplementary

of the inquiry, with Mr Sahadevan's Supplementary proof. In addition, that Supplementary proof was the first indication that the Appellants had had that Mr Woodburn would accept that a pedestrian and cycle access from Crows Road would not need to use Alan Hocken Way.¹¹²

113. Consequently, as set out above, it is now agreed that the scheme does indeed deliver the link to West Ham station and facilitate the link to Parcellforce; Reason for Refusal 1(a)(iv) is agreed to be overcome.¹¹³ In a similar way, given that there is currently no connection to West Ham Station, or to S11, nor any permeability or connectivity across the site, it is agreed that the appeal scheme, far from 'preventing' the improvement of permeability and connectivity, positively aids and provides for it.¹¹⁴ As such, Reason for Refusal 1(b)(vii) is not made out.
114. Mr Deely had a complaint about desire lines and their deflection,¹¹⁵ and Mr Sahadevan appeared to labour under an impression that access from Crows Road and Canning Road would be through check-points and by the issue of security passes.¹¹⁶ The layout plan D004 and the terms of the s.106 obligation shows these concerns to be groundless. There will be unrestricted, 24 hour access through the appeal site to the south of the mosque building, including the new Riverine Square.¹¹⁷ Throughout the day there will also be access to the gardens, riverside walk and the terrace in front of the mosque entrance.¹¹⁸ No planning policy designation can oblige a landowner to dedicate his land to the public, and here there is no current public access. The proposals very significantly indeed increase (from zero) permeability and connectivity both to and across the site.

A.5 Convergence

115. This can be dealt with shortly. Mr Sahadevan's proof at 5.54 sets out the key indicators of convergence. He was simply unable to articulate¹¹⁹ how the proposal would have an impact on any of them. It is a 'non-point' and should never have been raised.

A.6 Viability

116. Mr Stephenson has consistently considered that the delivery of the aspirations of S10 is simply not viable. For the Council, Strettons (who do not appear any longer to be retained) asserted a land value of some £20m.¹²⁰ Mr Stephenson rebutted that in his reports.¹²¹ Mr Lee has had another go.¹²² The best he can arrive at for 800 units (i.e. at the medium family level), assuming no affordable housing and 3% retail floorspace, is £2.9m. That is very far from Strettons' £20m, which must be judged, on the evidence before the inquiry, as entirely unrealistic.
117. To get to his £2.9m residual land value, however, Mr Lee has had to be allowed to reduce the affordable housing provision to zero (on the basis of, and therefore indicating, a lack of viability), to have a 'mix of residential and

¹¹² Contrast what Mr Bellamy reports as being told in his April meeting with Mr Woodburn [Bellamy rebuttal APT 4.3 para. 6.7]

¹¹³ Sahadevan xx CBQC, Day 4

¹¹⁴ *ibid*

¹¹⁵ Deely xx CBQC, Day 1

¹¹⁶ Sahadevan x, Day 3

¹¹⁷ Except for the duration of events at the mosque

¹¹⁸ See terms of s. 106

¹¹⁹ Either in xx or, it is respectfully suggested in ix.

¹²⁰ Stephenson proof, APT 5.1A section 3.

¹²¹ CD A12 and A14

¹²² Lee proof, see Section 5 and accompanying Appx

employment' translated into 2,850m² of retail and to not place a local centre on the site. Moreover, he has had to be relieved of any requirement to provide a second vehicular access from the site and to be allowed to bring pedestrians and cyclists on to Crows Road Bridge without providing a new bridge over Manor Road and into Alan Hocken Way. Without these concessions, he would be facing some £16.5m of infrastructure costs which would render his £+2.9m a significant loss.

118. To allow for all of this, we have seen Mr Woodburn produce (through Mr Sahadevan's Supplemental proof) a scheme for improving Canning Road/Abbey Road which removes his 'safety' objection to the appeal scheme, using third party land for which, the inquiry is assured, there is no payment or ransom required.¹²³ We have been told that there is no requirement for vehicular access from Crows Road, despite the reserving of the land to Alan Hocken Way as part of the Core Strategy S10 allocation boundary, and indeed, we have been told, according to Mr Sahadevan, that given the high PTAL, a vehicular access would be 'undesirable'.¹²⁴ We were told, by way of explanation, that the S10 boundary in the January 2012 Core Strategy was a 'drafting error'.¹²⁵
119. We have been told that Mr Woodburn could 'not recollect' telling Mr Bellamy in April that even a pedestrian/cycle link would need to cross Manor Road on a bridge into Alan Hocken Way.¹²⁶ The scheme to solve that particular riddle was then provided by Mr Woodburn after the inquiry had started.¹²⁷ We have been told that Mr Woodburn had concluded that the 'S10' scheme would be adequately served by his new Canning Road works,¹²⁸ although it became apparent that there had been no peak-hour assessment of the operation of that junction.¹²⁹ We were told that the Council would now re-open Crows Road Bridge at no cost to the developer.¹³⁰
120. All of this smacks of little less than abject desperation to find a deliverable S10 scheme in the face of significant access difficulties besetting the site.¹³¹ The chief beneficiary of this frenzied change of heart on highways matters has been the Appeal case (as set out in the highways submissions below), but the viability case for a notional S10 has only notionally been improved.
121. This is because, while a policy/highways insistence on a second access, or a third-party ransom or a bridge into Alan Hocken Way would have sunk the viability case without trace, the fact that the Council officers in this inquiry have espoused the matters just listed does not alter the fact that, in the real world, the market would not accept a mixed-use scheme with only one access off Canning Road.¹³² This is a theme throughout Mr Stephenson's evidence: look up from your policies and your appraisals and consider how the market would see this site.
122. The site is highly contaminated. It is in a secondary area, even for Newham. It is bounded by the isolating railway/tube lines and roadways. There is (as

¹²³ Woodburn x, Day 2

¹²⁴ Sahadevan x, Day 3

¹²⁵ Sahadevan x, Day 3

¹²⁶ Woodburn xx(1) CBQC, Day 2

¹²⁷ LBN 4.31

¹²⁸ Woodburn Supplementary

¹²⁹ Woodburn xx(2) CBQC, Day 7

¹³⁰ Sahadevan Supplementary, inquiry Day 1

¹³¹ Indeed, it must seriously be wondered if all the matters just set out would have been in any sense likely to have been espoused by Mr Woodburn and Mr Sahadevan if it had not been so necessary to shore up a notional S10 scheme.

¹³² Stephenson xx DCQC, Day 9

the Council says) no 'heart' to West Ham. It is not a destination and is devoid of services and facilities. Even better located sites are, according to Mr Stephenson, buoyed on a 'false' market of Far Eastern buyers, buying off plan. Beyond all this, there are so many much better and less risky sites in which to invest. All this in a time of market uncertainty as volatility increases and the risks of a crash in values for these less desirable locations.¹³³ If we then add the prospect of the Mansion House speech unlocking a further slew of brownfield development opportunities, there is simply no realistic prospect that the market will take S10 forward.¹³⁴

123. This experience in the market and sense of realism is in marked contrast to Mr Lee's approach of fiddling with figures to try to show a positive residual land value. His 'with growth' figures fail properly to reflect real growth in construction costs. His updated 'April 2014' figures leap in a month from a site value of £2.9m to £8.3m. An enthusiastic land-buyer presenting such a set of figures to the grey-beards on his Board would be laughed out the room (and possibly out of his job).
124. The failure of the commercial element alone would render the £2.9m land value a significant negative.¹³⁵ This is bound, in Mr Stephenson's view, to occur without suitable vehicular linkages. Mr Woodburn and Mr Sahadevan's attempts to assist the notional S10 scheme (though very helpful to the appellants) have been in vain.
125. The market has shown and would show no appetite for S10 (even as watered down by the Council). S10 is therefore an undeliverable policy and 'out of date' for the purpose of para. 14 of the Framework. Its continued reservation for doomed uses is contrary to para. 22 of the Framework – a paragraph reflecting a principle of general application, not limited to employment allocations.¹³⁶

A.7 Need

126. Whilst S10 is a dead letter, there is a beneficial use to which the appeal site can and needs to be put. That is the provision of a place of worship for the Tablighi Jamaat movement resident in Newham, London and the South East region. The Enforcement appeal Inspector recognised the service provided to the community and, correctly, accorded it substantial weight.¹³⁷
127. Existing attendance on Thursdays stands at between 2,500 and 3,000 depending on season and who is speaking. Friday prayers attract about 700 people. The last Ijtama (a short one of 2-3 hours) attracted 6,000-7,000 people, but Dr Sennett estimates a congregation who would be likely to wish to attend an Ijtama, if they could, to be around 12,500 people. In this context, the 9,000 capacity of the Mosque is, in his opinion, a reasonable capacity for the Trustees to build.
128. Currently, Ijtamas for London and the South East are being held over two days in Dewsbury, due to the lack of space at the Riverine Centre. This is plainly neither sustainable nor desirable and doubtless acts as a barrier to attendance by those who would wish to attend if they could. As Dr Sennett so pithily put it: an important part of integration is to allow faith groups to celebrate their faith.

¹³³ All Stephenson xx DEQC, Day 9

¹³⁴ Stephenson rx, Day 9

¹³⁵ See Appx LBN 2.1

¹³⁶ As accepted by Sahadevan xx CBQC, Day 4

¹³⁷ CD F6

129. For Tablighi Jamaat, that involves the large congregational gatherings of the weekly Thursday lectures and prayers and the yearly or twice yearly regional Ijtamas. There is insufficient capacity in the existing buildings to meet those needs, and a shared perspective that those buildings are not a suitable long-term arrangement. There is no other mosque or site which can accommodate the current 2,500-3,000 (were that to be displaced from the existing site) or the expected 4,000 weekly congregation, let alone the twice yearly 9,000. There is no current provision for women, a deficiency which will be remedied by the appeal proposals. In addition, they will provide for an Islamic library for study and teaching and a Visitors Centre as well as dining arrangements and some overnight accommodation for visiting Imams.
130. Tablighi Jamaat is acknowledged (even by NCL¹³⁸) to be a legitimate branch of the Muslim faith, with legitimate needs to worship in the manner it considers appropriate. That imposes a space requirement in line with its anticipated congregational sizes. The appeal proposals seek to meet that need, a matter, rightly, recognised to attract substantial weight and directly going to the achievement of social and cultural cohesion.

A.8 Continuation of the existing buildings

131. It is recognised that the existing buildings are unsuitable for long term retention. However, in the absence of an alternative site onto which to decant during construction of the new mosque, provision needs to be made until after Phase 1 (construction of the dining hall). It was agreed by Mr Sahedevan that phasing can be adequately controlled by condition.¹³⁹

Conclusion on Main Issue/consideration A

132. Policy S10 is both unrealistic and unnecessary. Its basket of land uses is not viable, but also their non-delivery on site brings no material planning harm. The local centre is facilitated and contributed to. The linkages are provided or facilitated as appropriate. The employment contribution has been watered down to a small amount of retail that is unlikely to be taken up and the housing (800 units in total, of which only 247 are 'family' and none is affordable) is not needed on this site, will be readily provided on other sites coming forward and is overwhelmed by the sheer scale of delivery now anticipated. Added to this there is a real and pressing need for a mosque big enough to accommodate the Tablighi Jamaat congregation so that this legitimate faith group can celebrate their faith in the manner they consider theologically appropriate.

B. Impact on highway safety in the area

133. As outlined above, the Council's case and the Council's evidence on highways matters has seesawed in a similar vein to its planning policy case. It started¹⁴⁰ with an allegation of congestion and safety impact due to high volumes of traffic attracted to the site, harm to pedestrians assumed all to use Canning Road due to the lack of linkage to West Ham station. It alleged 'parking stress' as a result of car-borne trips, while denying that this would encourage modal shift in a PTAL 6a site. It wanted to test parking impact on a maximum capacity of 10,000, while the Council was still refusing to accept a regular attendance of even the 4,000 the Appellants contended for.

¹³⁸ Mrs Taylor xx CBQC, Day 5

¹³⁹ Sahedevan xx CBQC, Day 4

¹⁴⁰ See R Ref 3 [CD F36] and proof of Mr. Woodburn [APT 7.1a p. 10]

134. With the evidence heard at the inquiry, much of this changed. As noted above, it appears that the Council woke up to the fact (albeit a little late in the day for its proofs) that in order to show some plausibility to its 'policy-compliant' S10 scheme, it would need to be able to demonstrate that a single vehicular access off Canning Road would work (i.e. no need for a vehicular access off Crows Road)¹⁴¹ and that pedestrian and cyclist access from Crows Road was not only possible, but would happen, both at no cost to the developer and without raising the spectre of using Alan Hocken Way¹⁴².
135. Whatever the motive, the effect of these changes of heart has been beneficial to the case for the appeal scheme. By opening up Crows Road Bridge (without using Alan Hocken Way), the site is now given direct pedestrian and cycle access to West Ham Station, while relieving Canning Road and The Greenway of much of its pedestrian traffic. By identifying works at Canning Road/Abbey Road and at the Manor Road mini-roundabout, the Council has demonstrated that its own capacity/safety objections have been overcome.¹⁴³
136. The inspector identified five sub issues concerning this matter and these are dealt with below albeit that four of these have been agreed as satisfactory during the course of the Inquiry.

B.1 Congestion

137. Whilst the reason for refusal alleges congestion, Mr Woodburn clarified that congestion was not really his concern.¹⁴⁴ Rather, he had had concerns over safety of sightlines at the Canning Road/Abbey Road junction. This, while not justified in the evidence,¹⁴⁵ was, in turn, overcome by the agreed re-design of that junction to provide signals.¹⁴⁶ No other congestion or safety issues were raised by anyone.

B.2 Sustainability

138. The Council acknowledges that the site is a highly sustainable location, having an agreed PTAL rating of 6a.¹⁴⁷ Mr Woodburn and Mr Sahadevan both accepted¹⁴⁸ that the advice in the Framework¹⁴⁹ paras 34 and 35 was applicable, namely, that developments generating significant amounts of movement should be located where there is good access to sustainable modes of transport. By being located on a site with PTAL 6a, that requirement is met in spades. To require the development to be located elsewhere would be to hamper, not foster, the aims of sustainability.¹⁵⁰
139. With the agreed works to Canning Road, Mr Woodburn dropped any allegation of harm to pedestrian safety.¹⁵¹ In addition, his original work¹⁵² assumed all pedestrians entering the site from Canning Road, as – presumably when he wrote his proof – the Council had not yet decided to accept publicly that it can and should re-open Crows Road Bridge. Now that it has accepted that Crows Road Bridge both should and can be re-opened,¹⁵³ pedestrians coming from

¹⁴¹ Hence Woodburn drwg. LBN 4.31

¹⁴² Hence Sahadevan Supplementary LBN EC and drwg LBN 4.31

¹⁴³ LBN 4.28 and LBN 4.31

¹⁴⁴ Woodburn x; Day 2

¹⁴⁵ APT 4.3 Section 5

¹⁴⁶ Woodburn x and xx CBQC, Day 2

¹⁴⁷ Woodburn x, Day 2

¹⁴⁸ Woodburn xx CBQC, Day 2; Sahadevan xx CBQC, Day 4

¹⁴⁹ CD D1

¹⁵⁰ Woodburn xx CBQC, Day 2; Sahadevan xx CBQC, Day 4; Bellamy x; Day 7 (unchallenged)

¹⁵¹ Woodburn x, Day 2

¹⁵² See e.g. Woodburn proof LBN DA para. 2.8

¹⁵³ Sahadevan Supplementary

the direction of West Ham station can be assumed to gain access to the site via Crows Road.

140. Mr Bellamy estimates that about 60% of pedestrians would use Crows Road, if the bridge were re-opened.¹⁵⁴ This removes any issue over pedestrian capacity on Canning Road.¹⁵⁵ There appears to have been a time when the Council was of the view that pedestrian use of Crows Road would need a new bridge over Manor Road and into Alan Hocken Way in order to avoid an unsafe situation at the foot of the Crows Road 'ramp' to the south of the mini-roundabout on Manor Road.¹⁵⁶ However, by the first day of the inquiry, Mr Sahadevan¹⁵⁷ was able to indicate that this would be overcome by signaling that mini-roundabout, and a drawing has subsequently been produced by Mr Woodburn.¹⁵⁸ As such there is no longer an objection from the Council regarding pedestrian safety whether from Canning Road or Crows Road.¹⁵⁹
141. In truth, all that is left of the Council's highway objection is what it calls 'parking stress'. However, its case on these proceeded on (at least) two profound flaws.
142. First, Mr Woodburn was determined to test parking stress against attendance figures in excess of the 4,000 'design case' attendance for the weekly gatherings. This was despite (and in conflict with) the Council's case pursued in cross-examination with both Dr Sennett and Mr Bellamy that the 4,000 was the appropriate measure test the scheme; still more so the case pursued with Mr Stewart that the mosque was oversized given weekly attendance of around 2,500. It also ignores the fact that the yearly or twice-yearly Ijtamas (expected attendance 9,000) are subject of special measures to cover highways impact, including marshalling and parking matters, through the s.106 obligation.
143. In a similar way, providing photographic evidence of illegal parking on the occasion of the last Ijtama (attendance 6,000-7,000¹⁶⁰) does not assist in providing evidence of the weekly parking pressures. Not only would such an event, in the future, be subject to special measures, it appears to predate the enforcement of parking controls by the Council and/or police. As Mr Bellamy dryly observed 'a little enforcement would go a long way'; 'a parking ticket or two tends to dampen the tendency to park illegally.'¹⁶¹ Miss Harris told the inquiry that, more recently, the Council and/or police had indeed been more active in enforcing the law and now that the police and Council were attending, there was not the illegal parking previously observed.¹⁶²
144. The second flaw is the car trip modal share assumed by the Council and what it has done with that modal share. The appellant has used a modal share derived from a survey submitted with the application and, with this, worked up a 'with Travel Plan' car driver share of 20%.¹⁶³ This compares with the survey-derived car driver share of 27%, with a car passenger modal share of 45%.¹⁶⁴

¹⁵⁴ Bellamy x; Day 7

¹⁵⁵ Woodburn xx CBQC; Day 2

¹⁵⁶ Bellamy Rebuttal APT 4.3 at para. 6.2; Mr. Woodburn could not 'recall' having said that [Woodburn xx CBQC, Day 2]

¹⁵⁷ Through his Supplementary proof

¹⁵⁸ Document LBN 4.31

¹⁵⁹ Woodburn xx CBQC, Day 2; Sahadevan xx CBQC; Day 4

¹⁶⁰ LBN 4.27, the date of which was 17 November 2013, as confirmed in Mr Weatherhead's supplementary proof of evidence - APT 7.3

¹⁶¹ Bellamy xx DEQC and rx CBQC, Day 7

¹⁶² xx CBQC, Day 10

¹⁶³ APT 4.1A para. 8.23

¹⁶⁴ LBN DA Table 3.3, p. 15

Mr Bellamy considers this consistent with the 'excellent' PTAL 6a and the fact that the site is to have 300 parking spaces, limited to cars with 3 or more occupants and all¹⁶⁵ requiring to be pre-booked.¹⁶⁶ It also accords, broadly, with the TRAVL data for the Baitul Futuh Mosque, with its poorer accessibility PTAL 4.¹⁶⁷

145. Unhappy, it seems, with this, Mr Woodburn commissioned his own traffic surveys, including car occupancy. It is profoundly to be regretted that Mr Woodburn did not follow good practice in seeking joint surveys, agreed methodology or even extend the professional courtesy of informing Mr Bellamy when they met that he had undertaken a new survey (despite having, by then, the results and knowing he intended to use them).¹⁶⁸ Such, however, is very much Mr Woodburn's approach, generally.¹⁶⁹
146. Be that as it may, the results of this survey are remarkably out of tune with everything else that is known about car usage at the Riverine Centre. A car occupancy is given as 1.09 persons per car,¹⁷⁰ despite the 3+ occupant rule. The passenger numbers are, accordingly very significantly out of kilter with the experience at the Riverine Centre and recorded data from Baitul Futuh.¹⁷¹ It also indicates a total attendance of around 494 for a Thursday, which is very significantly lower than the 2500-3000 attendances otherwise observed.¹⁷²
147. Mr Bellamy considered, therefore, that it appears that the JMP/QTS survey was 'missing' passengers. He observed that it is very difficult to count accurately car passengers and well-nigh impossible from a video camera in the dark – the methodology indicated to have been used.¹⁷³ This brought Mr Woodburn to inform the inquiry, in chief,¹⁷⁴ that the survey had, in fact been a manual one – a revelation necessitating the calling of a witness of fact, Mr Abkari.
148. It was quite apparent from Mr Abkari's evidence how the passengers had been missed. Unless he had seen more than one occupant, he put down every car as being driver-only. He was working on his own, for six hours (4pm-10pm) in March, four of which were in the dark, looking south, down Canning Road (from a 'discrete' position on a bench), thus with site-bound traffic approaching from behind him, passing his right shoulder and driving away from him.¹⁷⁵
149. That alone would be sufficient to cause him to be inaccurate in counting passenger numbers, but in addition to counting occupants of cars driving away from him (in the dark, with or without tinted windows), he had to: hold that number (for each car) in his head and wait before he marked them down until they had shown themselves to be driving into the site gate; watch other cars coming towards him and count their occupants as they approached – to be entered on a different sheet; while counting pedestrians passing him from the Greenway, and separately counting pedestrians from Canning Road – each to be entered onto different sheets, again holding these numbers in his head and waiting to mark these (by number) on their respective sheets if they too had entered the gate; while also counting pedestrians coming out of the site, but

¹⁶⁵ Other than disabled

¹⁶⁶ APT 4.1A para. 8.22

¹⁶⁷ LBN DA p. 27-28 – albeit measured on Friday

¹⁶⁸ Woodburn xx CBQC, Day 2

¹⁶⁹ See comments on Mr Woodburn in the footnotes above

¹⁷⁰ LBN DA para. 3.20

¹⁷¹ LBN DA p. 27-28

¹⁷² APT 4.3 para. 2.8-2.9

¹⁷³ APT 4.3 para. 2.4

¹⁷⁴ Woodburn x, Day 2

¹⁷⁵ Abkari xx CBQC, Day 9

once more holding them in his head as he could only mark them down once they had chosen to walk up either Canning Road, or onto the Greenway, and which way (as they are all separately recorded).¹⁷⁶

150. No wonder, then, that Mr Abkari under-recorded car occupancy. He had been set a herculean mental task. Moreover, his assertions of clear recollection and accuracy must be flavoured by his repeated retreat, when pressed, into saying that that he had done a lot of these surveys recently and didn't commit the details much to mind, as well as – most damagingly – his apparent willingness to sign and swear a statutory declaration deposing to the truth of 'facts', the truth of which were then discovered to be entirely outside his own knowledge.¹⁷⁷
151. This is not a survey whose results – so out of kilter with all else known – can be afforded any material weight. As a consequence its use to derive traffic generation from 4000 attendees (or any other figure) is uninformative of anything other than mathematics. Further, as Mr Bellamy explained,¹⁷⁸ if cars were arriving and parking at 1.09 occupancy levels, the 3+ rule was not being enforced that night, leaving the results unrelated to a situation with the appeal scheme in place and '3+ with booking' in operation. Lastly, with a limit of 300 parking spaces on site (and all to be booked), it is not possible to use trip generation figures observed down Canning Road for a (on Mr Abkari's results) 432 attendance night to establish a car driver trip rate for attendees knowing they will be unable to park on site.¹⁷⁹
152. Without the use of the unreliable occupancy of 1.09 persons per car [41.33% car driver; 3.78% car passenger],¹⁸⁰ the Council cannot show 'parking stress' for realistic weekly usage of the mosque. Large events, such as the yearly or twice yearly Ijtamas of around 9,000 attendees, are subject to their own regime under the Special Events Management Plan. Smaller, weekly events – the Shab e Juma on Thursdays or the Friday prayers generate traffic numbers able to be accommodated on site and/or in the surrounding available on-street parking spaces.
153. Valiantly, the Council tried to turn this ability to find adequate parking nearby into a stick to beat the Appellant's car mode share assumptions. If there's plenty of parking, you won't get your mode share to 20%, they say. But this overlooks the self-controlling effect that ease or difficulty of parking has on cars as a mode choice where there are other modes available.¹⁸¹ Here, we have a PTAL of 6a: 'excellent' opportunities exist, therefore, for sustainable transport means. The choice is there and is attractive. Parking restraint is the other side of the equation. If there is plenty of parking, there may be a greater temptation to drive, but if that gives rise to 'parking stress' (i.e. there is no longer plenty of parking), that acts as a downward pressure on car trips.¹⁸²
154. Finally, to get this in perspective, the issue (if there is one) is on one night midweek, for a few hours in the evening, and when there is a popular speaker attracting a 'peak' attendance. In the words of the NPPF para. 31, by no means can that impact be described as 'severe'. In the words of Mr Bellamy,

¹⁷⁶ Abkari xx CBQC, Day 9

¹⁷⁷ e.g. LBN 4.20 paras 10 and 11, Abkari xx CBQC, Day 9

¹⁷⁸ Bellamy x, Day 7

¹⁷⁹ Bellamy x, Day 7

¹⁸⁰ LBN DA Table 3.2, p. 14

¹⁸¹ Bellamy x, Day 7

¹⁸² Bellamy x, xx DEQC and rx Day 7

the answer lies, if one is needed, in 'a little bit of enforcement,' by the Council's traffic wardens.

B.3 Impact on the public transport network

155. There is no TfL objection¹⁸³ and the Council do not, separately, allege an impact in terms of public transport capacity. This is a location whose public transport infrastructure was improved for the Olympics. Situated between two Tube/DLR/rail stations, close to Stratford International and adjacent to The Greenway, this is a location whose PTAL 6a reflects a high degree of public transport access and is eminently suitable for intermittent large-scale trip generators¹⁸⁴ such as places of worship, fully in accordance with the Framework.

Conclusion on Main Issue/consideration B

156. A highways objection in terms of congestion impacts has evaporated. Highways objection in terms of safe operation of junctions (while never justified) has been agreed to be overcome. Impact on parking has been shown to be illusory. The allegation depends on looking to occasions which would be covered by the Special Events Management Plan and/or using car occupancy figures from an unreliable survey, unrelated to the proposed operation system of the mosque before the inquiry.
157. The public transport system is more than adequate to cope – indeed the ready availability of public transport services and capacity is a marked and important benefit of this location for this proposed use. The NPPF would, very strongly, indicate that in transport terms this is 'the right development in the right place'.

C. Impact of the previous use of the land (contamination)

158. In respect of Appeal A, Reason for Refusal 5¹⁸⁵ set out three objections: (1) harm to users of the proposed buildings; (2) harm to users of the temporary existing buildings until replaced (mercury exposure within the buildings and airborne dust from construction); (3) harm to groundwater. As regards Appeal B, objection was taken in respect of harm to users during the period sought, effectively repeating the second issue in RR5 but only in respect of mercury exposure within the buildings¹⁸⁶. Of these objections, resolution was reached before the inquiry in terms of impact on groundwater and on the users of the proposed buildings (i.e. issues (1) and (3)).¹⁸⁷
159. In the course of cross-examination, Mr Crowcroft agreed that the Enforcement Notice Inspector's Condition 7¹⁸⁸ provided a suitable mercury exposure limit for the protection of public health and that the specification approved by the Council pursuant to Condition 6 was an appropriate specification for monitoring mercury levels, provided that it was adhered to.¹⁸⁹
160. It is apparent that the appellants have not adhered to the approved monitoring specification, in terms of submitting reports of results, but also, and particularly, as regards the length of time the passive badges were exposed to

¹⁸³ APT 4.1A para. 5.5

¹⁸⁴ See NPPF para's 34 and 35

¹⁸⁵ CD F36

¹⁸⁶ Crowcroft xx CBQC, Day 2

¹⁸⁷ See Crowcroft proof at para. 81 and 82 and Crowcroft xx CBQC, Day 2

¹⁸⁸ LBN AA para. 39

¹⁸⁹ Crowcroft xx CBQC, Day 2 ; for the conditions themselves, see CD F6; for the approved specification, see Crowcroft Appx 1.11

the air. However, as laymen, this mistake is explicable in that the Laboratory advice for the use of these badges would indicate an 8-hour (i.e. working day) exposure, rather than the month-long period required in the approved specification.¹⁹⁰ Following the grant of permission, the services of Hilson Moran were dispensed with and, it appears, those in charge followed the Lab instructions rather than going back to the condition 6 specification.¹⁹¹

161. The consequence is that for the period where there are readings (with the exception of one anomalous month), insufficient mercury was deposited to allow detection. As such there is no evidence from these readings that concludes a breach of the condition 7 limit, but, equally, no firm evidence of compliance.¹⁹² The answer, in reality is the (correct) continuation of the monitoring on what both experts agreed was a sound specification. We have one additional month; this shows compliance with the condition7 limit.¹⁹³ Provided the revised conditions provide for a suitably qualified company to undertake the monitoring and reporting, the use of the mosque can continue, without risk to public health, subject to the condition 7 mercury exposure limit requiring suspension if elevated levels are found. Appropriate conditions should be imposed, therefore, on both the permission granted on Appeal A and the temporary permission granted on Appeal B.¹⁹⁴
162. As regards airborne contaminants during construction of Phase 1 of Appeal A, a Construction and Environmental Management Plan should be secured by condition in order to ensure that dust suppression is adequate to prevent contaminated dust (mercury, lead and arsenic) leaving the Phase 1 works boundary. The public using the existing mosque buildings are outside that works zone and – in the same way as contaminated sites are routinely managed in order to prevent dust migration to third-party land – the CEMP will prevent impact.¹⁹⁵

Conclusion on Main issue/consideration C

163. Consequently, the inspector and Secretary of State can conclude that with the imposition of suitable conditions, contamination can acceptably be controlled for the protection of both prospective and existing users.

D. The impact on the character and appearance of the area

164. There is a polar difference between the approach of the Council and the approach of the Appellant. The design analysis (such as it can claim that term) of the Council is: S10 wants to limit faith-based uses to play a minor key to housing and employment; this is a big building just for a faith use; we can see it; it, therefore, causes harm. The approach of the Appellant by contrast: here we have an opportunity to create a major piece of public architecture, a social and cultural symbol of regeneration, an object worthy of civic pride enhancing the prestige of Newham and acting as an overt expression of our tolerant, multi-faith society.
165. To quote the Design and Access Statement:

'The mosque creates its own context, as all significant public or religious buildings should. It sets itself apart from the prosaic and mundane...

¹⁹⁰ Andrews xx DEQC and ix, Day 8

¹⁹¹ ibid

¹⁹² See Andrews Rebuttal APT 6.3

¹⁹³ CD []

¹⁹⁴ Crowcroft xx CBQC, Day 2 and Andrews x and xx DEQC, Day 8

¹⁹⁵ Andrews x, Day 8, [unchallenged]

*The ambition is to create an exceptional piece of architecture of national significance – a building that provides a landmark and a destination not only for the Islamic community but for the whole of Newham and beyond.*¹⁹⁶

166. How depressing then, to have the Council attempt to use that ambition as a point of criticism. Depressing, but also inconsistent with the Core Strategy's own Vision for Newham 2027, of 'a series of beacons woven into a fabric of equivalent quality and diversity.'¹⁹⁷ When the opportunity arises for a real 'beacon' – and one not merely formed from a large office or apartment block, but one of real cultural and social significance¹⁹⁸ – the Council falls back on its quotidian aspirations in policy S10 to see some medium density, medium rise housing and a few shops.
167. In very simple terms, like any building, the size of the mosque derives from its required capacity and the disposition of its internal arrangements. These, in turn, have followed a careful process of evaluation, as explained in detail in the DAS.¹⁹⁹ The architect, very properly, wanted a space both practical and uplifting – an inspiring internal space for the acts of worship for which he was being asked to design.²⁰⁰
168. That inspiring internal space is matched by an equally inspiring external manifestation and expression of it.²⁰¹ The covering of the prayer hall with an over-sailing roof, the disposition of ablution and translation blocks framing the main space, the theologically necessary orientation of the Qibla wall towards Mecca and the consequent alignment of the building-blocks of the scheme – all these are crafted with an intelligence and conviction which sets great architecture apart from the mundane (the 'ordinary' as Mr Owers put it).
169. To this is added the choice of architectural language. It is the language of intelligent, site-responsive²⁰² European Modernism, drawing relevant references, themes and approaches from the Islamic architectural tradition, but without descending to banal quotation or the direct lifting of 'orientalist' motifs or details.²⁰³
170. The allegation that the buildings are 'monolithic' shows nothing more than the scant regard the Council has paid to the scheme before it. Simply to look at drawings 700-705²⁰⁴ and APT 1.1B8 p. 31 more than amply demonstrates that this is a highly articulated grouping of 'collegiate' buildings around an open square.²⁰⁵ The main prayer hall is large, but it is not a 'monolith' (assuming such a thing to be bad, in the first place).²⁰⁶ Indeed, Mr Sahadevan indicated in his oral evidence that he did not object at all to the 'wings' represented by the Library and the accommodation block.²⁰⁷
171. Given the physical stature of the building, the intelligence of the architectonic solution, the grace and subtlety of the architectural language and the pallet of proposed materials and detailing, the Inspector and Secretary of State can be

¹⁹⁶ CD A.18; DAS; p. 7

¹⁹⁷ CD H33; CS – Section 4; para. 4.5

¹⁹⁸ Stewart x, Day 6

¹⁹⁹ CD A18, p. 60

²⁰⁰ Owers x, Day 5

²⁰¹ CD B51, drwg. D300-302, and D700-705

²⁰² See DAS at p.7, second column, second paragraph [CD A.18]

²⁰³ See discussion in Appx to DAS [CD A.18] and Deely xx CBQC, Day 1

²⁰⁴ CD B51

²⁰⁵ Stewart x, Day 6

²⁰⁶ APT 2.1A para. 6.3.5

²⁰⁷ Sahadevan xx CBQC, Day 4

- confident that this is a building which will, justifiably, rank itself with the major religious buildings of Europe.
172. An observation, then, that the building will be 'the dominant element in the view' from a section of Manor Road,²⁰⁸ or from a length of the Greenway,²⁰⁹ is not a negative matter, any more than is an observation that St Paul's Cathedral is a dominant element in the view from Ludgate Hill.²¹⁰ The Council has fallen into the 'it's big, therefore, it's harmful' fallacy.
173. This is a city-scape with some truly huge structures such as the Olympic Stadium, the Excel Centre and the Millennium Dome,²¹¹ as well as accommodating the merely very large, such as the Bazelgette pumping station, the Gasometers, a wide range of industrial sheds and Stratford Train Station.²¹² The Channelsea River is a large-scale feature snaking its way definitively through the scene, its inhospitable canalised banks like quaysides; significant transport infrastructure of roads, railways and tube lines, heavily fenced or raised on embankments, carve the landscape up, all at a far from human scale. Even the much-vaunted Greenway is actually in reality a gigantic sewer taking London's effluent somewhere out East.
174. There *are* smaller grain developments. To the east of the railway and Manor Road, for example, modern three-four storey housing blocks line the roads,²¹³ but none of this presents a design precedent that one would wish to emulate or follow.²¹⁴ Equally, for larger buildings, the most proximate, Channelsea House²¹⁵ is hardly a 'beacon' of good design. The site, therefore, as a cleared scene of post-industrial desolation and dereliction is a prime opportunity to create an exemplary piece of architecture of the 21st Century. Mr Ower's scheme, it is respectfully submitted,²¹⁶ rises to that challenge.
175. Consequently, when any impact on the Conservation Area is contemplated, it is right to start with the recognition that good buildings of modern architecture, even very large and 'in complete contrast...to the traditional buildings which characterise the area²¹⁷' can be approved – indeed form landmarks themselves – even within the Conservation Area boundary. So much more so, a building which sits outside that boundary.²¹⁸
176. This is shown most clearly in the modern pumping station, but it was accepted by Mr Deely as a matter of general principle and, indeed, is reflected directly in the policy of the Framework. A new and appropriate building - even a large and very differently styled building - in the setting of the Conservation Area is not to be assumed to cause harm. Quite the contrary, its impact can be neutral or, indeed, beneficial.²¹⁹
177. The same is true, of course, for other heritage assets, such as listed buildings. Again, development in their setting (there is no development directly affecting any listed building) can cause harm to the significance of the heritage asset, but only if: (1) the setting – and the part of the setting affected by the change

²⁰⁸ CD C25, p. 114

²⁰⁹ CD C25, p. 115

²¹⁰ Stewart RX, Day 6

²¹¹ CD A18 p. 72-73

²¹² APT 1.1.B9

²¹³ CD A18 p. 76

²¹⁴ Owers x, Day 5

²¹⁵ CD A18 p. 89

²¹⁶ A submission strongly underpinned by the expert analysis of Mr Stewart.

²¹⁷ CD H26 p. 12

²¹⁸ Deely xx CBQC, Day 1

²¹⁹ NPPF Glossary, CD D1 p. 56 and para. 137

- contributes positively to the significance of the heritage asset; and (2) the change in the setting wrought by the development affects the contribution that that part of the setting makes to the significance of the heritage asset, and does so to a materially adverse degree.²²⁰ Only then can it be said that there is harm to the significance of a heritage asset – thereafter a judgement is made as to how substantial that harm to the significance is considered to be.²²¹
178. Both Mr Deely and Mr Sahadevan, however, had approached the policy tests incorrectly. This is the more surprising as the tests in the NPPF concern the concept of ‘significance’, a concept introduced as long ago as PPS5. The error into which they both fell was to treat the setting as if it were a heritage asset (able to be harmed) as opposed to recognising that changes to the setting of a heritage asset are only pertinent to the extent that those changes affect the significance of the heritage asset.²²²
179. Consequently, they asked and answered the wrong question. Mr Deely expressed his conclusions on both the Conservation Area and the listed buildings as ‘substantial’ or ‘less than substantial’ harm ‘to the setting.’ That is the wrong subject matter of assessment. It accords with a rather out-dated approach: listed buildings are nice things; you’ve put something ugly in its setting; I can see it; it therefore causes harm.
180. With heritage assets of an industrial nature, it will very often be the case that their significance derives from aspects to which their setting has no relevance. Thus a building listed because it houses a special type of beam-engine²²³ has significance wholly independent of whether its surroundings are fields, housing, industrial sheds, urban dereliction – or, indeed, a mosque. Where aesthetics and historical association of setting are perhaps in play, such as at the Georgian Three Mills group,²²⁴ with their association with the river setting in which they sit and which gave them their purpose, it is still necessary to ask whether the appeal site (i.e. the location of change) is making any current contribution to their significance and whether the change proposed would adversely affect that contribution so as to amount to harm to that significance.
181. Of the numerous listed buildings in the vicinity, only four groups are said by the Council to be ‘harmed’: two substantially (West Ham Pumping Station and the Gas Holders²²⁵) and two less than substantially (Abbey Mills Pumping Station and the House Mill group).²²⁶ However, as observed, in each case, it is the setting that is claimed to be harmed.²²⁷ There is a key missing link, therefore, in the Council’s analysis, which no witness for the Council was able to remedy²²⁸ and upon which Mr Stewart for the appellants was not challenged.²²⁹ That is, whether any alteration in the setting provided by the proposed development affects the significance of the heritage asset in question. Mr Stewart, who had done the exercise concluded it would not.²³⁰
182. Lastly, there is a further policy error exhibited by the Council’s case. In keeping with its pre-Framework/pre-PPS5 mind-set, Mr Sahadevan appears to

²²⁰ Stewart x, Day 6 (unchallenged)

²²¹ i.e. for the purposes of para 133 and 134 of the NPPF, DC D1

²²² Deely and Sahadevan xx CBQC Day 1 and Day 4

²²³ Eg the West Ham Pumping Station (Grade II).

²²⁴ See e.g. the photo at CD A18 p. 82

²²⁵ LBN CA para. 3.34-3.35

²²⁶ LBN CA para. 3.30-3.33

²²⁷ Deely proof 3.34, 3.35, 3.32 and 3.33

²²⁸ Deely xx CBQC, Day 3; Sahadevan xx CBQC, Day 4

²²⁹ Stewart xx DEQC, Day 6

²³⁰ APT 2.1A para. 6.4.7

have approached impact on heritage matters as a harm justifying refusal per se. In his committee report,²³¹ in the reasons for refusal,²³² in the Statement of Case²³³ and in his proof of evidence, there is no consideration at all of whether, if para. 133 or 134 of the Framework is engaged, the tests within those paragraphs are met or failed. He did not do the necessary balancing exercise which those paragraphs require.²³⁴

Conclusion on Main Issue/consideration D

183. Reason for Refusal 3 hangs unsupported by analysis either to determine whether one is in para. 133 or 134 of the Framework, or whether if one is in those paragraphs, the tests are met or failed.

Conclusion on Appeal A

184. Section 38(6) requires that decisions be taken in accordance with the development plan unless other material considerations indicate otherwise. Case-law indicates that development is not in conflict with the development plan merely by being in conflict with one policy, but must be judged against the development plan as a whole.
185. Paragraph 14 of the Framework indicates that proposals in accordance with the development plan should be approved without delay. Where relevant policies are out of date (which would include where their aspirations are shown not to be deliverable), permission should be granted unless harm significantly and demonstrably outweighs benefits.
186. Here the material conflict alleged is with site specific policy S10, but the scheme accords with the policy intention to regenerate the site and there is no objection in principle to a mosque on the site. Similarly, open space, sports provision and general visual and environmental enhancement all gain development plan support. Specifically, the provision for faith-groups to meet their needs in order to be able to celebrate their faith is a matter with policy support at national, London and local levels.
187. Policy S10's aspirations for linkages of the site to West Ham Station and facilitation of a link to S11 are agreed to be met. S10's requirement that the site 'contributes' to a local centre is agreed to be met. The jobs 'foregone' are an illusory 135 retail jobs. The housing 'forgone' are 800 units (with only 247 family units and no affordable), not needed to be delivered on this site and able to be provided on other sites.
188. The scheme is agreed to bring no highway capacity or safety issues, can accommodate its parking requirements appropriately and is sustainably located at PTAL 6a. It positively contributes to the character and appearance of the area and causes no harm to designated heritage assets. The 'special regard' under s. 66(1) of the Planning (LB&CA) Act 1990 can be had without a moment's concern.
189. Through this scheme, this derelict, highly contaminated scene of post-industrial dereliction will be regenerated by a private-sector investment of some £137m, creating a park, sports facilities, and connectivity across the site, a world-class building worthy of genuine of civic pride and a spiritual home for thousands of Muslims across Newham, London and the South East.

²³¹ CD F33

²³² CD F36

²³³ CD H16

²³⁴ Sahadevan xx CBQC, Day 4

It is, indeed, a 'beacon' as asked for by Newham's Vision. Not 'more of the ordinary',²³⁵ but a symbol of regeneration and cultural cohesion, allowing 'faith groups to celebrate their faith.'²³⁶

Appeal B – temporary permission for continued use of existing buildings

190. Appeal A provides for the continuation of the use of the existing buildings pending the completion of Phase 1. However, in the event that Appeal A is not allowed, for whatever reason, there will be a need for the Trustees and the Tablighi Jamaat community they serve to take stock and consider its options. What these options are will depend on all the circumstances and on the reasons for which Appeal A is dismissed. They may involve a re-consideration of the proposals for the site; they may involve seeking an alternative site.
191. In either event, there will be a need to continue to accommodate the existing congregation. There is no other site currently available and the continuation of the service provided to the Tablighi Jamaat community is, properly, recognised to be a matter of substantial weight.
192. There is an injunction hanging over this site, subject to the outcome of these appeals. This places the decision within the gift of the Secretary of State, as the Court recognizes that it is not placed to judge the planning merits of continued use. Without Appeal A or B, the use is to cease within 6 weeks, or the Trustees will be in contempt of court.
193. The Secretary of State is asked, therefore, to consider the planning merits (which the Court cannot do) of whether it serves the public interest to eject followers of Tablighi Jamaat from the site while an alternative solution to meeting their needs is found.

Appeal C – the Section 174 (enforcement) appeal on grounds (f) and (g)

194. These appeals have been resolved by agreement. If Appeals A and B are both dismissed, it is agreed that the terms of the Enforcement Notice should be varied both to lessen the steps and to extend the time limit for demolition. If this is done, the appeal on ground (f) is withdrawn and that on ground (g) is successful to the tune of 3 months rather than 1 month.

Appellants' overall conclusion

195. Ultimately this scheme is about providing a place for a legitimate faith group to celebrate their faith according to their teachings and practices. It does so on a site which is highly sustainable and in acknowledged need of regeneration. It does so in a building of grace and beauty, fitting to its practical purpose and its spiritual and symbolic role.
196. The appellants have set out the factors in favour of this development above. They are, we submit, compelling. We have explored the matters said to justify its refusal. They are, we submit, illusory, mistakenly founded or of limited weight. It would need, we very respectfully submit, something pretty profound to reject this scheme in order to reserve the site, as S10 seeks to do, for 'more of the ordinary.' The Riverine Centre will stand as a beacon of excellence: as a piece of world-class architecture; as an expression of genuine civic pride for Newham; as a notable example of much-needed private-sector, community-led regeneration; and as a potent symbol of our tolerant and welcoming society.

²³⁵ As per Mr Owers [Owers xx DEQC, Day 6]

²³⁶ As per Dr Sennett [Sennett xx DEQC, Day 7].

The Case for the London Borough of Newham

Introduction

197. What is proposed is described by the appellants as “one of the largest purpose built facilities for worship and multipurpose use in the UK”.²³⁷ The main component of the development comprises a mosque with a capacity for 9,312 individuals, with additional capacity within the associated and ancillary spaces. A mosque of this capacity in excess of double the size of the existing mosque at Dewsbury, which is described by the appellants as “one of the largest purpose built mosques in Europe”.²³⁸ It exceeds the capacity of the Regents Park mosque in London by some 3,000²³⁹ and of the East London mosque in Whitechapel by in excess of 4,000.²⁴⁰ Mr Weatherhead, for the appellants, was unable to identify any larger mosque in either the UK or in Western Europe. The sheer scale of this facility, and its consequential impacts, should be considered in this comparative context.

Development Plan and Policy considerations

198. The appellants acknowledge that their proposal is in conflict with the development plan; the basis of the conflict requires little by way of explanation. They seek to obtain planning permission on the basis of an “exceptions case”,²⁴¹ namely that material considerations indicate that planning permission should be forthcoming notwithstanding the conflict with the development plan. Mr Weatherhead confirmed this to be the case during XX on day 11.²⁴² He confirmed that the material considerations on which the appellants relied were: (a) the need for the proposed development; (b) that development in conformity with the development plan allocation was not viable; and (c) that the benefits, as he perceived them, which the proposal would generate, outweigh any harm.

199. We address these matters in detail later in these submissions. Mr Weatherhead’s confirmation in this respect accords with the appellants’ case as it is set out in (a) their Planning Statement, submitted with the planning application²⁴³ and (b) in their Statement of Case, submitted for the purposes of the public inquiry, in which they confirm that:²⁴⁴ *“the Planning Statement submitted in support of the application sets out the reasons why an exception to policy is justified”* and *“... there is a compelling case based on the lack of viability of a policy compliant scheme and over-riding need for the proposed facilities that justify an exception to policy”*.

Appeal A – outline application

200. The appeal site is one of the strategic sites identified by the Council within its adopted Core Strategy. It is the subject of a clear and detailed site specific policy – S10.²⁴⁵ That policy, at its core, requires that the appeal site will be developed for a mix of uses comprising residential and employment uses. The appeal proposal delivers neither, as indeed Mr Weatherhead acknowledges in

²³⁷ CD A10, p.115.

²³⁸ APT 3.1A, para.6.27, p.23.

²³⁹ APT 3.1A, para.6.62, p.32.

²⁴⁰ CD A9, p.73.

²⁴¹ See the Appellants’ Statement of Case (CD H20, paras.4.5 and 4.14), and the Planning Statement (CD A1, paras.6.6 and 6.35).

²⁴² 18/6/2014.

²⁴³ CD A1, p.37, para.6.6.

²⁴⁴ CD H20 p.260, para.4.5 and p.261, para.4.14.

²⁴⁵ CD H33, p.50.

his proof.²⁴⁶ Instead what is proposed is in substance a single faith based development comprising a very large mosque and associated facilities. The two multi-use games areas (MUGAs) together with their pavilion comprise a wholly subsidiary element of the development. Moreover, the extent of the faith based use proposed is such that it plainly dominates the very limited mix of uses (faith uses and a small amount of open space) which are proposed.²⁴⁷ Consequently, that there is a clear and substantial conflict with the site specific policy of the NCS component of the development plan cannot be (and is not) gainsaid.

201. Conflict with the development plan does not stop there. The appeal site is located within the Lower Lee Valley Opportunity Area identified within the TLP. Policy 2.13B of the TLP²⁴⁸ provides that within Opportunity Areas development proposals should: '*(a) support the strategic policy directions for the opportunity areasset out in Annex 1 ... ; (b) seek to optimise residential and non-residential outputs and densities ... and, where appropriate, contain a mix of uses; (c) contribute towards meeting (or where appropriate, exceeding) the minimum guidelines for housing ... set out in Annex; (d) realise scope for intensification associated with existing or proposed improvements in public transport accessibility and (e) support wider regeneration.*'
202. The TLP, at Table A.1.1 within Annex 1, sets out the "*strategic policy direction*" for the Lower Lee Valley OA. It identifies the area as "*the most important single strategic regeneration initiative for London and an urban renewal challenge of global significance...*". It provides for a "*rich mix of employment, housing and open space across the Lower Lee Valley*". It further provides that "*the area will contain a significant new residential community providing at least 32,000 new homes and potentially up to 40,000*" and that "*the main Olympic Park will accelerate the realisation of the vision for the Lower Lee Valley for it to become a vibrant high quality and sustainable mixed use new city district...*".
203. The proposal meets none of TLP objectives for the Lower Lee Valley OA:
 - a. the policy for the Lower Lee Valley and Stratford OAs as set out in Annex 1 to the TLP is overwhelmingly directed at new housing and employment provision - the appeal proposal delivers neither;
 - b. as such it does nothing to optimise residential or non-residential outputs of the form sought by the OA policy in TLP Annex 1 (which does not provide for a 9,000 capacity mosque). Instead, the proposal is in substance for a single faith based use rather than any meaningful mix of uses;
 - c. given the nature of the development proposed it contributes nothing to meeting (let alone exceeding) minimum guidelines for housing;
 - d. the locational advantages in terms of public transport are not utilised for the range of uses the TLP expects in this OA; and
 - e. the proposal seeks to redevelop the appeal site but for a scale and form of use which is not supported by the TLP or the NCS.
204. It follows from the acknowledged conflict with the development plan that the normal presumption in favour of refusal of planning permission arises pursuant

²⁴⁶ APT 7.1A, para.6.5.

²⁴⁷ We return to the issue of contributing to the creation of the local centre and to linkage later in these submissions.

²⁴⁸ CD H34 pp.59-60.

- to s.38(6) of the Planning and Compulsory Purchase Act 2004. The conflict with the development plan which arises in the present case is plain and substantial, not least given the specificity of the site specific policy relating to the appeal site and the fact that both components of the development plan were adopted recently (the TLP in July 2011 and the NCS in January 2012). The conflict with the development plan must, we submit, be given very substantial weight.
205. Moreover, the breach of the development plan should be considered in the context of the importance attached by the Secretary of State to the operation of the plan-led system in the determination of planning applications. In paragraph 17 of the Framework the Secretary of State sets out the "Core Planning Principles" which "*should underpin both plan-making and decision-taking*".
206. The first of the Core Principles is that planning should: '*be genuinely plan-led, empowering local people to shape their surroundings, with succinct local ... plans setting out a positive vision for the future of the area. ... [Local Plans] should provide a practical framework within which decisions on planning applications can be made with a high degree of predictability and efficiency.*'
207. The Council do not of course suggest that development in conflict with the development plan cannot be approved; such a submission would plainly be in conflict with s38(6). However, to allow the proposed development to proceed in the circumstances of the present case would (given the substantial conflict with the development plan and absent even remotely compelling reasons for so doing) compromise the letter, the spirit and the plain intention of this first Core Planning Principle.
208. The appellants fully engaged with the examination in public into the emerging NCS (including through professional representation at the examination itself).²⁴⁹ At no time during the EiP process did the appellants seek to suggest that a mixed use development of the appeal site (to include an element of faith based use) was not appropriate or deliverable. Nor was any objection raised to the emergence and eventual adoption of policy S10 in terms which included a requirement for mixed use. That the appellants took no substantive issue with the emerging policy S10 and its aspirations for a mixed use development on the appeal site when they had every opportunity to do so serves only to enhance both the weight that should attach to S10 and to its breach in the present case.
209. The appellants have carried out no pre-application consultation with the local community in respect of the form of faith based development which is now proposed through Appeal A. Indeed, as was confirmed by Mr Owers in XX, pre-application consultation was limited to a mixed use form of development (in the form of scheme 4 as set out in Mr Ower's proof of evidence)²⁵⁰ of which a mosque was but one component.²⁵¹
210. That the appellants are now advancing a proposal which is in clear conflict with the development plan in circumstances where the local community were neither consulted nor invited to become involved in the development of that specific proposal, aggravates the clear conflict with the Secretary of State's

²⁴⁹ CD H11 (pp.170-178) (Appellants' Written Representations in emerging plan) and CD H12 (pp.179-180) (Appellant's Summary of Submissions to Core Strategy Examination).

²⁵⁰ APT 1.1A p.39, para.5.16.

²⁵¹ RO XX day 5 (10/6/2014); RO Proof (APT 1.1A, p.39, para.5.16); and the Statement of Community Involvement (CD A16).

first Core Planning Principle. Further, the suggestion that the development proposal submitted for determination responded to the views expressed in the consultation on scheme 4²⁵² is simply not supported by the record of those comments in the Statement of Community Involvement – none in fact request the removal of the mixed use elements.²⁵³ Any material considerations capable of overriding such a plain and substantial conflict with the development plan would need to be very weighty indeed.

211. In the appellants' written evidence there is a faint suggestion that the proposals should be regarded as in conformity with the development plan when considered as a whole.²⁵⁴ This suggestion has been put to rest by Mr Weatherhead's confirmation²⁵⁵ that planning permission was being sought on the basis that an "exceptions case" with the development plan conflict being overcome through the three issues of need, viability and benefits. Indeed, Mr Weatherhead's confirmation accords with the appellants' own Planning Statement and Statement of Case.²⁵⁶
212. Further, those policies which Mr Weatherhead suggests that the development accords with²⁵⁷ are all matters which any development proposal on the appeal site will be expected to comply with and therefore should be given little, if any, weight as a justification for a non-policy compliant form of development. The appellants appear to rely on the *Rochdale, ex p Milne* decision,²⁵⁸ in support of their contention that compliance should be judged with the development plan as a whole.
213. It cannot however be right to judge a proposal to be in accordance with the development plan as a whole when the proposal is not in conformity with the site specific allocation. Such a conclusion would drive a coach and horses through s.38(6). Given the clear conflict with the site specific policy for the appeal site, as well as conflict with the London Plan policies for Opportunity Areas, it cannot credibly or reasonably be contended that the appeal proposal complies with the development plan when considered as a whole.
214. The appellants and the NPA also suggest that policy S10 and the Core Strategy itself should be given limited weight on the basis that (a) no proper assessment of the need for additional religious facilities (and for mosques in particular) was carried out in advance of the adoption of the CS, and (b) there was no proper examination of the viability of a policy compliant scheme. This approach, with respect, is entirely misconceived.
215. In response to that, firstly, the NCS having been adopted and not challenged, it is now far too late to attempt to re-open such matters. Secondly, and in any event, both complaints are entirely without foundation on their merits. The appellants whom, as has been submitted, were fully and professionally engaged in the EiP of the emerging NCS took no point that the emerging plan as a whole or emerging policy S10 in particular, does other than meet their needs or indeed the needs of any other religious organisation. It is of note that Ecorys, the appellants' consultants in respect of need, had been engaged since as long ago as July 2010.

²⁵² APT 1.1.A, para.3.11.

²⁵³ CD A16, Appendix 7, pp.42-58.

²⁵⁴ APT 7.1A, paras.5.4, 5.13-5.15.

²⁵⁵ XX day 11, 18/6/2014.

²⁵⁶ See paragraph 3 above.

²⁵⁷ For example, enhanced biodiversity (CS policy SP2), enhancement of the Blue Ribbon Network (CS policy SC4), and Green infrastructure (CS policy INF 6).

²⁵⁸ [2001] Env. L.R. 22. See APT.7.1A, para 5.4) and the judgment extract in his Appendix (APT 7.1B4).

216. Further, there is no suggestion that the appellants' needs have altered fundamentally since 2010. Moreover, in respect of viability, the appellants' took no issue with the viability of a mixed use development of the appeal site as was being proposed through emerging policy S10. Their viability witness before this Inquiry, Mr Stephenson, had been engaged too since before the February 2011 inquiry and indeed, at the time of the CS examination,²⁵⁹ Mr Stephenson's supplementary report of October 2011²⁶⁰ was pending.
217. Notwithstanding this, no issues as to viability were raised by the appellants through their representations to the EiP of the Core Strategy.²⁶¹ Instead, their representations centred on ensuring S10 made specific reference to religious uses on the site.²⁶² The appellants therefore activity supported a policy for the appeal site which advanced mixed use development including a mosque. As such, there can be little objection now that policy S10 – which reflected the appellants' representations – was not truly viable when adopted.
218. Through cross examination of Mr Sahadevan, it was suggested that policy S10 was out of date by reason of a policy compliant form of development being unviable today. We address the viability argument below in detail and submit that the viability concerns as to the deliverability of an S10 compliant scheme are unfounded. However, at this stage, we merely submit and reiterate the point made above that the appellants' submission is rather surprising given that no such concern was expressed during the examination of the NCS notwithstanding Mr Stephenson being fully engaged at that time. Indeed, the appellants were fully supportive of mixed use development. Moreover, the appellants' professed viability concerns did not seem to impede their own development and consultation on proposals for a mixed use development of the appeal site,²⁶³ as explained by Mr Owers when describing his Masterplanning exercise, and indeed as recently as June 2013.²⁶⁴

A Impact on the planned use of the site (Policy S10)

219. The proposal is accepted to be in conflict with the development plan as a whole and with the site specific policy (S10) for the appeal site within the NCS in particular. That policy expects a mixed use development on the appeal site. The proposal patently fails to achieve this. It delivers no homes, no jobs;²⁶⁵ and delivers, in substantive terms only a faith based use which dominates the whole site. It does not deliver a new local centre and the extent to which it "contributes to the creation of a new local centre" on the neighbouring S11 Parcelforce site is limited to simply safeguarding the existing modest tunnel beneath the railway lines. It latterly provides a link to West Ham station via a reopened Crows Road. Although that link will be provided, the quality of that link is highly compromised.

²⁵⁹ Which took place between 13 September 2011 and 28 September 2011 (CD H15, p.193).

²⁶⁰ John Stephenson's proof (APT 5.1A, para.3.3, p.8). The Report is produced as CD A14 (dated November 2011).

²⁶¹ See the Inspector's Report on the Examination into the CS, where he reported that: "The site is heavily contaminated which may lead to viability problems but there is insufficient information to determine that the CS proposals would not be deliverable. From the information before me, the policy for the site as proposed to be changed is sound" (CD H15, para.43).

²⁶² CD H12, p.179.

²⁶³ See paragraph 138(b) below.

²⁶⁴ LBN EC, Appendix 4.

²⁶⁵ The figure given by PW in his proof (APT 7.1A) at p.30 para.6.51(i) of 231 net additional jobs is misleading in that those additional jobs are limited to construction jobs (which any redevelopment of the appeal site can be expected to generate). The appellant acknowledges in its ES that no employment will be generated during the operational phase of the development: CD C10, para I5.1.5, p.12.

A.1 Planned housing provision

220. The *minimum* contribution which Newham is required to make to the massive demand for new homes in London is formidable. The figures are agreed between the parties, namely a minimum of 40,000 new homes between 2011 and 2027 – equivalent to 2,500 new homes each year.²⁶⁶ These *minimum* requirements are derived from the TLP;²⁶⁷ Newham's housing requirements are the third highest of any London Borough, exceeded only by the targets for Greenwich and Tower Hamlets and these are "*minimum*" requirements which the Council must, through the TLP, seek to "*exceed*".²⁶⁸ All parties to the inquiry recognise, it seems, the very considerable challenges which the Borough faces in meeting the very substantial housing requirements for the plan period derived, as they are, from the TLP.
221. The challenge set by meeting these requirements is only set to increase given that (a) the increased minimum housing requirements and annual targets which are set out by the Mayor in the emerging Further Alterations to the London Plan;²⁶⁹ and (b) the objectives set out most recently by the Coalition Government through the Annual Mansion House speech given by the Chancellor of the Exchequer to increase and accelerate house building on brownfield sites in London.²⁷⁰
222. The Council through its NCS has set out its approach to meeting this enormous challenge, which is only set to grow. There are two principal building blocks to this strategy: the Arc of Opportunity and the identified Strategic Sites. With regard to the former, the Council recognises through policy S1 of the CS, that the "*greatest opportunities for change will come forward within the Arc of Opportunity*"²⁷¹ of which the appeal site forms a central component. The "*Arc of Opportunity*" will be the "*primary focus for new job creation and the vast majority of new housing on large sites over the plan period*".²⁷²
223. The role of the Arc of Opportunity is described in the text accompanying policy S1 in the following terms: '5.3 Developing the extensive land available in the Arc of Opportunity provides the greatest scope to achieve transformative change in the lives of Newham's residents by providing high quality homes, employment and services and helping to achieve convergence with other neighbourhoods across London'.
224. That the twenty eight Strategic Sites identified in the NCS, of which the appeal site – S10 – is one, are the main building blocks for the delivery of the Council's Spatial Strategy (and in particular housing) is expressly recognised in S1 itself.²⁷³
225. For the appeal site to be released through this appeal for a form of development which yields no new homes whatsoever, contrary to its strategic allocation in the development plan, would compromise very substantially Council's strategy and therefore its capacity to meet the its minimum housing requirements, let alone its ability to exceed those minimum requirements as policy enjoins it to do. Moreover, it would consequently compromise the

²⁶⁶ LBN 5.64, para.4 (as amended).

²⁶⁷ CD H34, Table 3.1, p.83.

²⁶⁸ London Plan policy 3.3B and D

²⁶⁹ CD D8, p.91 (set out at LNB 5.64, paras.5-6).

²⁷⁰ CD H38, pp.7-8.

²⁷¹ CD H33, p.35.

²⁷² CD H33, p.35, policy S1.

²⁷³ CH H33, p.36.

Mayor of London's expectations for this Borough as expressed in the TLP and the OLSPG.²⁷⁴

226. The harm in terms of the loss of the opportunity for new homes on the appeal site does not however stop there. Firstly, the appeal site ticks all the boxes in terms of the criteria set down by the Mayor of London and by the Coalition Government as to where new homes should be built. The appeal site is a brownfield site. The Mayor has long encouraged the opportunities for such sites to be grasped.²⁷⁵ In his Mansion House speech in 12 June 2014 (during the course of the Inquiry), the Chancellor restated the Government's commitment to concentrating new homes on brownfield land. The release of the appeal site for the proposed development would run flatly contrary to the aspirations and expectation of the Mayor and the Coalition Government for brownfield sites in London.
227. Secondly, the site has excellent sustainability credentials in particular in terms of available public transport. It is agreed to have a PTAL rating of 6a. It is precisely to sites such as this – which have already at their disposal sustainable means of travel which need little or no enhancement – that new homes are directed through all levels of planning policy, beginning with the Framework section 4 and most recently endorsed by the Mayor in his Housing Zones Prospectus²⁷⁶ and his Homes for London draft Housing Strategy.²⁷⁷
228. Thirdly, lying as it does within an Opportunity Area identified by the Mayor, a brownfield site with excellent public transport accessibility is precisely the sort of site on which the Mayor's Opportunity Area policies expects the delivery of new homes. In this respect we refer to the TLP (policy 2.13²⁷⁸) and the Mayor's emerging Housing Strategy Homes for London.²⁷⁹
229. In conclusion, to sanction the loss of opportunities which the appeal site presents for the delivery of new homes will compromise substantially the Council's strategy for delivery of new homes – contingent as it is on strategic sites and the Arc of Opportunity – and thereby also its ability to meet even the minimum housing requirements for this Borough. As a consequence, the Mayor's expectations for housing delivery in this Borough – and indeed in London as a whole²⁸⁰ – will also be compromised.
230. Moreover, and importantly, given that the appeal site represents precisely the type of site which the Government seeks to secure for the delivery of new homes, to allow the appeal would cut directly across the repeated and strongly expressed imperative at national level to grasp the opportunity presently by urban, sustainable brown field sites. The appeal proposal would not only lose the opportunity for new homes but also compromise the achievement, and the integrity, of policy at local, regional and national level directed at the delivery of such homes.
231. The appellant's response to this important concern is to point to the apparent success of the Council in delivering new homes in the Borough. The appellants point to the Council's housing trajectory to 2027 of 41,193 which exceeds the current minimum housing requirement of 40,000 new homes.

²⁷⁴ See the GLA's planning report, which concluded that the appeal proposal "does not comply with the London Plan" and is "contrary to the OLSPG" due, in part, to its lack of housing provision (CD, F17).

²⁷⁵ CD D9, para.4.13, p.46.

²⁷⁶ CD H38, para.13, p.21.

²⁷⁷ CD D9, para.4.13, p.46.

²⁷⁸ CD H34, p.59

²⁷⁹ CD D9, paras.4.10-4.11 and 4.13.

²⁸⁰ PW accepted in XX on day 11 (18/6/2014) that London was to be treated as one housing area.

232. This response, however, misses a number of fundamental points. Firstly, the housing requirements set out in the NCS reflect the “minimum” requirements set out in the TLP. It requires the Boroughs to “seek to exceed” those minimum targets (policy 3.3A and D²⁸¹). Secondly, those targets in the TLP are set to be increased, and increased substantially, in particular given the revised minimum housing requirements set out in the Further Alterations to the London Plan.²⁸²
233. Thirdly, even on the Council’s current trajectory which seeks to secure 41,193 new homes to 2027 the loss of 800 or 1,000 new homes on the appeal site will reduce the anticipated delivery to 40,393 or 40,193 respectively, which is perilously close to the 40,000 requirement (and which gives the Council only between 1.9% and 2.5% leeway).
234. Fourthly, the appellants’ reliance on identified housing sites within the Stratford Masterplan Area²⁸³ and other sites identified by JS²⁸⁴ is unreliable for several reasons: (a) several of the sites referred to are in fact already strategic sites within the NCS therefore do not represent “extra” delivery over and above that anticipated in the NCS;²⁸⁵ (b) delivery of many of those sites is far from assured in that the sites neither have planning permission, nor are they the subject of applications, nor have pre-application discussions begun (this applies to several sites within the Stratford Masterplan area,²⁸⁶ the Floating Village²⁸⁷ and the Boleyn Ground²⁸⁸); and (c) in any event the premise of this approach – relying on identified sites – ignores the critical point that the housing requirement of 40,000 is a minimum and is set to increase.
235. Finally, the fallacy of the appellants’ approach of relying on other sites to mitigate the loss of this site is demonstrated by the simple fact that the same approach could easily be applied to each of the sites they in fact rely upon. On that approach there could be no certainty of any of those sites coming forward in the way the appellants suggest. Moreover, if the appellants’ argument were to prevail here the consequence is that the achievement of the NCS would be undermined still further.
236. The appellants objected to the Council’s approach to the acceptability of a reduced quantum of affordable housing, and of family units, on the appeal site in the context of a policy compliant scheme. In effect, the appellants contend that the harm arising from the development of the appeal site in accordance with the appeal proposal, contrary to the requirements of S10, is reduced since it is likely that an S10 itself scheme would provide for a level of affordable housing, and mix of housing types, which is below the target set out in the NCS.
237. However, Mr Sahadevan explained that reduced provision of both affordable housing and family units is acceptable where such a reduction is required to achieve a viable development. Indeed, such an approach, it is common ground, accords with: (a) the Framework;²⁸⁹ (b) the NPPG;²⁹⁰ (c) the TLP;²⁹¹

²⁸¹ CD H34, p81-83.

²⁸² LBN 5.64, paras.5-6; CD D8, p.91.

²⁸³ APT 7.1A, para.6.7 and APT 3.1A, para.10.1.

²⁸⁴ APT 3.1A, para.10.1

²⁸⁵ The Silvertown Quays site and the Royal Albert Docks sites both relied on by Mr. Stephenson at APT 5.1A, para 10.1, p.36 are classic examples in both are strategic sites (S21 and S19, respectively) within the CS.

²⁸⁶ SS EIC day 3 (5/6/2014) on which there was no challenge.

²⁸⁷ APT 5.1A, para.10.1, p.36

²⁸⁸ APT 5.1A, para.10.1, p.35.

²⁸⁹ CD D1, para.205.

²⁹⁰ LBN 2.12, p.7.

²⁹¹ CD H34, policy 3.12A and B, p.99.

and (d) the NCS itself.²⁹² As such, and as both Mr Stephenson²⁹³ and Mr Weatherhead²⁹⁴ for the appellants agreed, to reduce levels of affordable housing and to reduce the numbers of larger units to secure a viable development and allow development to proceed accords entirely with policy (and with modern practice). It is also important to note that over the NCS plan period 50% of the new homes required (minimum 20,000) are required to be private market housing and the NCS envisaged and has accounted for reduced provision below the target for affordable homes on some sites.

238. The Mayor's policy is that he "wishes to encourage, not, to restrain, overall residential development" and that "Boroughs should take a reasonable and flexible approach to securing affordable housing on a site by site basis".²⁹⁵ Having regard to policy at all levels, no criticism or complaint can be made if the tenure or mix of homes within a policy compliant development were required to be adjusted to secure viability. Indeed, the Council could not properly refuse planning permission if this were to be the case. No advantage can therefore be taken by the appellants, and no support for their case can be derived from the viability appraisals of a policy compliant scheme which suggest that such adjustments may be necessary.

A.2 Planned employment opportunities

239. The proposal is acknowledged to deliver no jobs beyond the construction period. Mr Weatherhead's suggestion to the contrary²⁹⁶ is misleading and does not accord with the NCS.²⁹⁷ Construction jobs can be expected to be delivered with any substantial development of the appeal site (including policy compliant development); they are certainly not unique to the appeal scheme and the appeal scheme ought to therefore take little benefit from their provision.
240. The Council has accepted that, given the extensive existing employment floorspace and the allocated sites within the NCS, the absence of any B-class floorspace on the appeal site would not be a substantial disbenefit. However, the appeal proposals can take no credit in providing no jobs whatsoever. The Council aspiration, as demonstrated by the scheme assessed by Mr Lee, for policy compliant development to include a local centre would of course generate some jobs, and Mr Sahadevan explained that the provision of retail jobs would satisfy the Council's aspirations in S10 for employment on the site. Mr Lee has explained the important contribution which retail jobs have provided to the London market.²⁹⁸
241. Regarding the Council's approach to the adjoining S11, that site is allocated in the NCS for employment led mixed use development.²⁹⁹ Mr Sahadevan has confirmed that remains the form of development that the Council expects to come forward on that site and that the GLA has been told as much.³⁰⁰ He is criticised for this on the basis that the Council accepts a healthy "pipeline" of existing and future employment floorspace in the Borough. This criticism however misses the point. While there may be sufficient B-class land in the Borough presently, it is of variable quality.³⁰¹

²⁹² CD H33, Box H1 (p.129) and para 6.126 (p.131).

²⁹³ XX day 9 (17/6/2014).

²⁹⁴ XX day 11 (19/6/2014).

²⁹⁵ CD H34, para.3.73.

²⁹⁶ LBN 7.1A, para.6.51(i).

²⁹⁷ See para 19(b) above, and associated footnote.

²⁹⁸ AL Eic and response to Inspector's questions, day 3 (5/6/2014).

²⁹⁹ CD D1, p.50.

³⁰⁰ SS Eic, day 3 (5/6/2014).

³⁰¹ APT 5.2, para.9.1.

242. The Council therefore has in its CS a "pipeline" to meet existing and future employment floorspace demands. S11 is part of that pipeline and is identified as site which will come forward in the "long term", toward the end of the plan period in 2027.³⁰² As such, the Council is entirely justified in seeking to retain the site for its allocated development as part of the "pipeline" on which the appellants and the Council relies. By way of conclusion, it may be said that if you have a successful pipeline, it behoves you not to dig that pipe line up! The Council's concern as to release of S11 for a housing led scheme is entirely justified.

A.3 Planned West Ham Local Centre

243. The NCS is quite clear in its requirement for the creation of a new local centre at West Ham. The requirement is set out policies S10 and S11. It is also set out within NCS policy S2(3).³⁰³ Mr Sahadevan explained the rationale behind this policy objective, namely to provide a "heart" or "core" to the settlement of West Ham, which is currently missing. The proposals include no local centre on the appeal site. At the appellants rightly observe policy S10 does not require a new local centre to be provided on the appeal site; the envisaged new local centre could be provided on S11.

244. The requirement in S10 however is for the appeal site to "contribute to the creation of a new local centre in the station vicinity". The appellants rely on the safeguarding of a route to the existing underpass which links the appeal site with the adjoining S11 site. Mr Sahadevan confirmed that this link could contribute to the creation of a new local centre on S11. However, the issue is the weight to attach to this link as the means to advance and meet the policy requirement. The Council considers that weight is limited.

245. If permission is granted, the only alternative location for the new centre is on S11. There is no commitment to such a local centre within S11 and in particular the appellants have entered into no agreement with the GLA in respect of the development of S11 to assure delivery of a local centre. The position in respect of the development of S11 is entirely inchoate. No planning application has been submitted, and we are told by the appellants that the GLA do not propose to submit one prior to marketing the site.

246. The site is to come forward following selection by the GLA, as owner, of a development partner, whose aspirations will determine the form of development proposed. No development partner has yet been selected.³⁰⁴ Nor has the process of selecting one begun. No development brief had been drawn up.³⁰⁵ Pre-application discussion is at an early stage and as matters stand the landowner's aspirations do not accord with the development plan allocation for the site and are opposed by the Council.³⁰⁶ Consequently, the form and timing of any development on the S11 site cannot be assured - particularly so in respect of any local centre component to that development.

247. The requirement of S10 is to "contribute to the creation of a local centre in the station vicinity". To contribute in any meaningful way to a new local centre on S11, there must be some commitment or firm assurance that there will be forthcoming a local centre on S11. There is no such commitment or assurance. The contribution offered by the appellants - the safeguarding of a

³⁰² CD H33, pp.200-201.

³⁰³ CD H33, p.40.

³⁰⁴ PW XX day 11 (19/6/2014).

³⁰⁵ PW XX day 11 (19/6/2014).

³⁰⁶ SS XX day 3 (5/6/2014).

route to an existing underpass (about which Mr Stephenson was noticeably dismissive in any event) – and the consequent facilitation of access to the S11 site can be given little weight in term of meeting the letter and aspirations of policy S10 in such circumstances.

248. The proposal provides for a mosque. As such, that use at least is one which S10 would support in principle. However, S10 is quite clear that any faith based use must be provided as part of a mix of uses and not dominate that mix. Given that, in substance, the mosque is the only material use to be provided on the site – the library and other associated uses are plainly ancillary (and are described by the appellants as such)³⁰⁷ and the two MUGAs are subsidiary elements of the scheme – the proposed development does nothing to meet the overall strategic elements of the policy including the community element.

A.4 Permeability

249. During the course of the public inquiry, the appellants have committed to fund and deliver site access improvements in the form of opening a link into the appeal site from the south east via Crows Road. This plainly represents an improved link to West Ham station as it facilitates access to Manor Road. It is therefore welcome. However, the fact that such a link will be provided does not overcome the need to consider the quality of the link, as indeed Mr Weatherhead accepted.³⁰⁸
250. The objective of the policy requirement to provide a link to West Ham Station is plain. At present the site is severed to the south by the existing railway line. Access through and across the site from the north (i.e. the Greenway and Abbey Road) to the south (Manor Road and West Ham Station) is prevented. That the appeal site is isolated visually and physically is recognised by the appellants.³⁰⁹ Indeed, the need to overcome barriers to movement in the West Ham area is identified in the NCS at policy S2(2).
251. The appellants' DAS identifies as a "priority" the "creation of a suitable arrival point at Canning Road and at Crows Road and the expression of what is a key desire line between them".³¹⁰ However, what is also plain is that the scheme was designed without any expectation that access into the appeal site via Crows Road would be utilised,³¹¹ albeit that the access point would be safeguarded. It is fair, therefore, to say that creation of a route through the site from north (Canning Road/Greenway/Abbey Road) to the south (Manor Road via Crows Road) was something of an afterthought and was not actively designed onto the scheme.
252. This perhaps explains why this route which reflects an identified desire line is orientated such that it involves several changes in level, involves use of a shared surface with vehicles, crosses the entrance to the car park and the car and coach turning area and passes adjacent to the forbidding eastern elevation of the very large prayer hall.³¹² This can hardly be described as an attractive, let alone inviting, route for what is an acknowledged desire line through the site.

³⁰⁷ CD A1, para 1.2.

³⁰⁸ PW XX day 11 (19/6/2014).

³⁰⁹ APT1.1A, para.4.3.1, p.16.

³¹⁰ CD A18 p.65.

³¹¹ CD A19 p.204, RO XX, day 5 (10/6/2014).

³¹² CD B51, drawing 2478-D008.

253. If, as proposed, the Riverine Square can be closed at the absolute discretion of the Appellants for "duration of events", the route becomes all the more unattractive given that over its entire length it would be shared with vehicles. As such, and for the reasons given by Mr Deely, although a link would be provided to West Ham Station via Crows Road the quality and therefore the attractiveness of this route would be severely compromised. Little weight should be attached to this element of the scheme as meeting the requirements and expectations of S10.

A.5 Convergence

254. Mr Sahadevan has explained during cross examination on day 4³¹³ the objective to secure "convergence" through which the socio-economic profile of neighbourhoods within the Borough is elevated to a level closer to that of other neighbourhoods in London. Convergence may be judged by reference to issues such as academic achievement and crime.

255. However, the means by which this convergence is achieved, and these indicators are improved, is by providing people with homes, jobs and other functioning local facilities such as those that would be found within a local centre. Fulfilment of the objectives of S10 would advance these convergence objectives in a way which is considerably more beneficial than the appeal proposal and its effect in terms of relinquishing the opportunities the appeal site presents through redevelopment in accordance with S10.

A.6 Viability

256. The appellant's case was summed up succinctly by Mr Stephenson on day 9 when he claimed, simply and clearly, that there would be "no market interest" in the appeal site.³¹⁴ That position is untenable and lacks credibility.

257. Firstly, the best means by which the appellants could substantiate the bold position which they adopt in respect of viability is to have tested the market through a realistic, fair and comprehensive marketing exercise. No such exercise has been carried out, as Mr Stephenson confirmed. Indeed, the site has not been offered to the market since the early 1990s when the site was promoted for essentially B1 or retail use.³¹⁵ It is surprising, to say the very least, that in a case where (a) a lack of viability is advanced and (b) an assertion is made that there would be "no market interest" in the site" there has been no testing of the market. The appellants have presented no explanation for their not having done so.

258. The appellants assert that there has been no approach from a developer. However, Mr Stephenson, when making this observation, properly caveated this evidence by indicating that he had been informed that this was the case by his client. His clients – the Trustees – have not themselves appeared to give that evidence themselves and to be tested on that evidence. The Trust makes no such claim in their written statement which is the best you have from them.³¹⁶ The claim should therefore be treated with caution, not least because of the letter from Jones Lang Lasalle³¹⁷ which indicates just the sort of market interest in the site which Mr Stephenson claims not to exist.

³¹³ 6/6/2014.

³¹⁴ RX day 9 (17/6/2014).

³¹⁵ APT 5.1B, App.3.

³¹⁶ Produced with JS's evidence: APT 3.1B, App.6, p.27.

³¹⁷ LNB 5.60.

259. Further, the appellants have displayed no intention whatsoever to dispose of the appeal site or to treat with a developer. Given that context it is hardly surprising that the development industry would not have been alert to any prospect of development of the appeal site. Absent any market testing this contention should be given little, if any, weight.
260. Secondly, the appeal site has several attributes which are likely to be of interest to the market and which Mr Stephenson confirmed would be regarded as a positive: excellent public transport accessibility; single ownership and no site assembly requirements; a water frontage facing a Conservation Area; and a cleared site with very limited demolition requirements.³¹⁸ The proximity to the centre of Stratford and to the Queen Elizabeth Olympic Park, via the Greenway, may also be considered advantages (notwithstanding Mr Stephenson's reluctance to do so).
261. There are other reasons why the appellant's assertion that a mixed use scheme is not viable lacks credibility. Firstly, in 2011 the appellants entered into a PPPA and a unilateral undertaking by which they committed to bring forward a planning application for policy compliant development (and by which they committed to vacating the site otherwise), despite being in possession of Mr Stephenson's evidence to the 2011 inquiry that mixed use development on the site was unviable.
262. Secondly, whilst Mr Stephenson was fully engaged by the appellants, various iterations of the Masterplan proposing mixed use development were prepared. In particular, following Mr Stephenson's revised report of October 2011,³¹⁹ in which he claimed the development was not viable, Masterplan scheme 3 and scheme 4 were prepared, submitted to the Council including for formal pre-application advice, and were put out for formal public consultation.³²⁰ This course of action is hardly consistent with the appellants being satisfied that a mixed use scheme was not viable.
263. Thirdly, the appellants made representations in support of a mixed use scheme on the appeal site (including a mosque) during the EiP into the NCS, again against the background of Mr Stephenson's apparent concerns as to viability. Finally, the alleged viability issue did not divert the appellants from making a further approach to the Council with a mixed use scheme in June 2013, well after its viability case in support of the current proposal had crystallised and had been submitted in support of the planning application now before the inquiry.
264. Seen in the context of this timeline, the extent to which viability is, or was, truly seen by the appellants as an impediment to a mixed use development coming forward becomes doubtful. Indeed, this course of events entirely resonates with Mr Owers' acknowledgement that "the final brief issued following public consultation called for a return to the core needs of the community ... and in so doing eliminated housing and commercial usages. This was justified in financial viability terms and reflected the community's preference for a less commercial development in favour of a landscaped setting for the mosque".³²¹ Mr Owers confirmed in cross examination that community preference was part of the motivation to reject a mixed use.³²²

³¹⁸ Stephenson XX, day 9 (17/6/2014)

³¹⁹ CD A14 (see also footnote 27 above).

³²⁰ APT 1.1A, paras.5.15 and 5.16.

³²¹ APT 1.1A, para.3.11 (see also, APT 1.1A, para.5.3.1).

³²² Day 6 (11/6/2014).

265. Both viability appraisals use the same methodology. However, and as Mr Stephenson recognises, such assessments are “very sensitive to changes in key areas” especially “costs regarding access arrangements, links to West Ham Station, decontamination and third party right”.³²³ Moreover, the assessments consider inevitably, hypothetical schemes. Their usefulness as a means of assessing viability must be considered in that context. This serves merely to underscore the importance of there having been a realistic, fair and comprehensive marketing exercise to test, reliably, developer interest in the site. The failure of the appellants to take this elementary step undermines the credibility of the viability argument which they advance.
266. There is little between the Council and the appellant in terms of values.³²⁴ That is indeed apparent from the appraisal results. Mr Lee, if anything, has been more conservative than Mr Stephenson in terms of likely values given in particular Mr Lee’s use of an 8% growth in values since the baseline values used of 2012³²⁵ compared to Mr Stephenson’s 15-20%.³²⁶
267. The Council fairly acknowledged that the criticism levelled at Mr Lee for adopting the same baseline values for residential units as were adopted by Mr Stephenson, but for smaller sized units was, a “small point”.³²⁷ In any event, it was a bad point since the baseline values used were derived from the Strettons report of January 2012.³²⁸ The values used by Strettons were not attributed to or claimed to be sensitive to particular unit sizes in any event but were instead generic to one and two bed flats and three bed houses³²⁹, as indeed Mr Stephenson confirmed.³³⁰
268. The main differences between the respective appraisals concern: (a) the use of growth forecasting; and (b) costs, and in particular abnormal cost inputs into the appraisals. Regarding the former, the appellant considers only current values and has no regard to forecast changes in value or costs. Mr Lee however, recognising that development on the appeal site is a future event, considers values both currently and in a “with growth scenario”. It is submitted that Mr Lee’s approach is correct, and indeed the more realistic. Mr Stephenson’s approach is not, we submit, grounded in reality.
269. Five factors are made in support of that view: (a) the appeal site is identified in the NCS to come forward in the medium to later phase of the plan period;³³¹ (b) the future of the site is to an extent dependent on the outcome of these appeals; (c) in the event that the result of the appeals is that the future development of the appeal site is a policy compliant mixed use then a proposed form of development will need to be identified, a planning application prepared and submitted, considered and determined and site preparation commenced (including remediation);³³² (d) as such, forecasting of future values by a prospective developer and at this inquiry is inevitable; (e) indeed to do so accords not just with common sense but accords with the

³²³ APT 5.1A, para.11.87, p.57.

³²⁴ Stephenson XX, day 9 (17/6/2014).

³²⁵ LBN BA, para.6.3.

³²⁶ APT 5.1A, para.11.36.

³²⁷ Stephenson XX day 9 (17/6/2014).

³²⁸ CD A12, p.20.

³²⁹ CD A12, p.29.

³³⁰ Stephenson XX day 9 (17/6/2014).

³³¹ CD H33, p.199.

³³² If the appeals are dismissed such that the status quo cannot continue (and a wholly faith based use, as now proposed, is ruled out) then it is entirely unrealistic to consider that the Appellants will not release the site to the market and seek developer interest. The Appellants cannot be expected other than to release the value of the appeal site in such circumstances.

Government's advice in the NPPG.³³³ Consideration of viability on a forecast basis is therefore entirely reasonable and realistic.

270. The criticism of Mr Lee that he has adopted a forecast increase in values but without taking into account either cost or cost inflation is misplaced. Mr Lee explained that his 3% growth rate per annum was *real* growth taking into account both costs and cost inflation. It was derived from the BNP publication "Housing and the Economy Summer 2012" and based on growth trends over 35 years.³³⁴ Mr Stephenson did not in his evidence on day 9 contradict or challenge Mr Lee's explanation and confirmation in his respect.
271. With regard to inputs, Mr Stephenson adopts, it is submitted an unduly pessimistic and unreasonably rigid approach to the form which policy compliant development would be required to take. In so doing, it is submitted, his appraisal is demonstrated to be wholly self-serving and lacking in credibility.
272. Firstly, Mr Stephenson rigidly includes £17.5 million of costs to reflect the construction of a new vehicular route to link the appeal site to Manor Road in the south.³³⁵ No detailed breakdown or derivation of this sum is offered. However, and in any event, the Council does not require such a new structure either for the appeal scheme or for a policy compliant form of development. Mr Woodburn for the Council was clear that he is satisfied that a policy compliant development, even accounting for the provision of some on-site residential car parking, would not generate a need for a second vehicular access.
273. The constraint at and concerns surrounding the existing access relate to the safety of the junction of Abbey Road and Canning Road, not its capacity. The safety issue is easily remediable at modest cost. Mr Bellamy has carried out no analysis to suggest that Mr Woodburn is wrong and he does not suggest that he is.³³⁶ Indeed, Mr Bellamy suggests that a secondary access would not be required for a policy compliant scheme in particular in the absence of high trip generating employment uses and with low car provision for the residential element.³³⁷ If the junction can cope operationally with a 9,000 capacity mosque, where traffic flows are concentrated into peak periods, it is hardly likely that it would not work for approximately 800 residential units which are wholly or substantially car free.
274. The appellant's assertion that – notwithstanding that the Council would not require a new southern access at a cost of £17.5 million – a developer would nonetheless insist of its own volition on providing one, without any evidence that it is necessary, or at least would factor such a cost in to his appraisal, is little short of bizarre. It reveals the lack of credibility in Mr Stephenson's assessment. Any developer interested in the appeal site would be bound to ask the Council at an early stage when considering a site to confirm its likely requirements in terms of access. Having done so that developer would be given a very straightforward answer which reflects Mr Woodburn's evidence to the inquiry; no southern vehicular access is necessary or required.

³³³ NPPG, para 10-018-20140306.

³³⁴ Referred to at LBN BA, p.20.

³³⁵ Comprising £10 million for a new Bridge, £1 million for third party payments and £6.55 million for the realignment of Crows Road.

³³⁶ In so far as the Appellants seek to criticize Mr. Woodburn for not considering trip generation for a policy compliant scheme on the basis of peak hour movements through the junction at Abbey Road/Canning Road, Mr. Bellamy produced no evidence that any materially different result would arise. Moreover, Mr Bellamy considers that the movements through that junction are low in any event (APT4.1A, para.8.38-8.39).

³³⁷ APT4.1A, paras.9.13-9.14.

275. The appellants did not purport to give highways evidence to gainsay this. There is nothing unusual about a single vehicular access to residential development particularly when the site benefits from a PTAL rating of 6a, and a high quality dedicated walking and cycling route can be provided from the site to Manor Road and West Ham station. Absent any real market support for such an assertion (which has not been provided and would, as a matter of common sense in any event seem unlikely to be forthcoming), Mr Stephenson's evidence in this regard should be given no weight and his insistence that this new access at a cost of £17.5 million should be provided should be disregarded.
276. The appellants are also unduly pessimistic about the cost of improvements to Canning Road and the Abbey Road/Canning Road junction; their assessment is that these will cost, and will be regarded by the market as costing, some £5.16 million.³³⁸ The scheme agreed to resolve the safety issue at that junction is in fact in the order of £194,000. Again, Mr Stephenson's inflated cost should be excluded. Taken together the highway infrastructure costs which are included but not, in fact, required add up to a total of £22.66 million.
277. The appellants also fail to carry out any adjustment of either the affordable housing component to the scheme they assess³³⁹ or the mix of family units.³⁴⁰ In this respect they fail to properly reflect and apply policy which requires such matters to be adjusted to reflect viability (as submitted above). Indeed, they recognised as much in the evidence.³⁴¹ This again shows Mr Stephenson to be unrealistic in his approach. Although Mr Stephenson gave evidence that making such adjustments itself revealed the unviability of policy compliant development,³⁴² the opposite must in fact be true; Mr Lee's evidence demonstrates that it is those adjustments which actually contribute to making policy compliant development viable. In several other respects (e.g. the quantum of land allocated to community uses, and the value of affordable units compared to open market) Mr Lee has taken a more conservative approach than the appellants.
278. In conclusion therefore, Mr Stephenson's cost inputs into his appraisal have been demonstrated to be overly pessimistic, unduly inflated and unrealistic. His conclusions therefore cannot be relied upon particularly given that they are completely lacking any market corroboration. Additionally, Mr Stephenson's conclusions do not accord with his own market perception and experience which is of considerable demand for development sites in the Borough fostered the success of the Council in encouraging sites to be brought forward. There is no reason why the appeal site should or would fare any differently. That there may be easier sites to develop is nothing to the point. The appeal site is anticipated for the purposes of the development plan to come forward in the medium to long term in any event.

A.8 Need

279. The Council does not resist in principle the provision of a mosque on the appeal site. Indeed, policy S10 recognises as much. However, the mosque must be provided as part of a mix of uses and should not dominate the overall mix of uses provided in the manner suggested within policy S10. The case, in terms of the mosque, is not therefore all or nothing. The appellants have

³³⁸ £2.16 million to upgrade Canning Road and £3 million for third party rights.

³³⁹ He adopts 35% affordable.

³⁴⁰ Again he adopts 35%.

³⁴¹ Stephenson XX day 9 (17/6/2014).

³⁴² RX day 9 (17/6/2014).

- known this to be the Council's position for a very long time (indeed back to at least the 2011 public inquiry when a PPPA was signed by the appellants and the Council to work toward such a mix of uses).
280. The appellants seek planning permission for a mosque with capacity in terms of prayer space for 9,312 individuals³⁴³ plus ancillary facilities. The prayer space is the main component in terms of the scale and design of the proposed development, as both Mr Owers³⁴⁴ and Mr Stewart³⁴⁵ acknowledge. The appellants therefore have to demonstrate a need for this very large capacity mosque and its ancillary facilities.
281. The justification is very difficult to grasp. In August 2010, the appellants' design brief identified an anticipated long term capacity of some 15,000.³⁴⁶ The application for planning permission, when submitted in July 2012, then identified an anticipated attendance on which capacity requirements were based as 9,310 on a Thursday and 5,270 on a Friday.³⁴⁷ It is plain from Mr Owers' evidence that the proposed development was designed to accommodate broadly this capacity.
282. With the submission of the Appellants' supplementary environmental information on 18 March 2014, the position radically changed. It was then said that those who produced the original ES (and presumably those producing the Planning Statement and the Needs Assessment which accompanied the planning application) were all mistaken and that maximum attendance on a Thursday would in fact be 4,000, and 2,000 on a Friday. An attendance of 9,000 was now said to be likely once or at most twice a year.³⁴⁸ This needs to be considered alongside Dr Sennett's current justification of need which, on the basis of population growth, leads to anticipated normal attendance in 2031 of 2,800 on a Thursday and 1,030 on a Friday.³⁴⁹ No explanation whatsoever has been given for this radical change in terms of attendance and, therefore, the capacity of the facility required to cater for that need.
283. These forecast figures lead to certain inevitable conclusions. Firstly, there is, given this entirely unexplained change in the appellants' case, a serious unanswered issue as to the reliability overall of the appellants' stated need case and certainly as to the extent of the need which is said to justify the massive scale of mosque proposed. Secondly, on the appellants' own case, the result is the usual attendance on a Thursday in 2031 (2,800) will occupy only some 31% of capacity (when taken as 9,000).
284. Peak attendance on a Thursday in 2031 of 3900 will itself only occupy 42% of capacity and even the (unexplained) 4,000 attendance on a Thursday identified in the Further Environmental Information represents just 44% of capacity. The corresponding figures for a Friday are: for normal attendance in 2031 just 11% of capacity; and for the attendance figure given in the Further Environmental information of 2,000 attendees on a Friday, only 22% of designed capacity. Regular attendances on days other than Thursday and Friday will be far below this. Full capacity will be reached only once or twice a year; 10 to 20 times a decade; and 17 to at most 34 times between now and

³⁴³ Comprised of 8,784 spaces in the main prayer hall plus 528 in the foyer at first floor level (APT 1.1A, paras.6.6.1 and 6.6.2, and RO XX day 6 (11/6/2014)).

³⁴⁴ XX day 6 (11/6/2014) by reference to Design and Access Statement (CD A18, p.60).

³⁴⁵ APT 2.1A, para.6.3.2, p.44 and XX day 6 (11/6/2014).

³⁴⁶ APT 1.1B p.7.

³⁴⁷ CD A1 p.46. The same figures are set out in the Needs Assessment CD A9 p.93.

³⁴⁸ CD H6 p.5 of 11 (para.2.2).

³⁴⁹ CD 3.1A pg.33 para.6.63.

2031. These figures speak for themselves. It follows that the need for a 9,000 capacity mosque has not remotely been demonstrated or justified.
285. A useful point of reference is to consider the existing mosque. It has a capacity of 3,000³⁵⁰ within a building of a footprint of 1,753 sq.m (18,870 sq.ft.)³⁵¹ A building of that scale accommodates comfortably those who wish to attend. The appellants' survey demonstrates a very high degree of satisfaction on a Thursday and Friday with the "quality of prayer space at the site".³⁵² Indeed, in the same survey, on a Friday, 92% of those attending the appeal site identified the quality of the prayer space as being an important or very important reason for attending.
286. If a capacity of 3,000 may be accommodated successfully in a building of 1,753 sq.m. footprint, then despite Mr Ower's reluctance to agree,³⁵³ it is difficult to see how a building of 2787 sq m (30,000 sq ft) is required to accommodate on a regular basis 2,800 individuals and at most (according to the Supplementary Environmental Information), 4,000.
287. The 9,000 capacity is now said to be required for Ijtitma – special events at the mosque which are said to be central to the form of worship practiced at the Riverine Centre. It is unclear if, beyond a single event in November 2013 an Ijtitma has ever been held at the appeal site. Dr Sennett was unable to give any information as to this. The holding of a 9,000 capacity event of the sort suggested seems untried and aspirational.
288. Ijtitmas are not held in fixed locations: events for the London and South East Region of the Tablighi Jamaat have taken place in Dewsbury.³⁵⁴ An Ijtitma for women was held in Ilford.³⁵⁵ To the extent that events have been held for the London and SE Region it is plain that they both have not been and are not required to be held at the appeal site.
289. The London and SE Region of Tablighi Jamaat extends over a vast swathe of Southern England from East Anglia to Plymouth.³⁵⁶ No evidence has been given as to the extent to which one or other of the affiliated mosques has actual or available capacity to hold such annual events and it has been no part of Dr Sennett's evidence to research such matters.³⁵⁷ The one Ijtitma held at the appeal site in November 2011 involved the use of temporary structures.³⁵⁸
290. The provision of increased capacity at existing mosques to provide additional accommodation seems entirely sensible and practical, and is apparently normal practice as demonstrated by their use at Dewsbury and at the Baital Futah Mosque, Morden.³⁵⁹ It is notable that the appellants, in their original brief of August 2010, envisaged the use of temporary accommodation at the appeal site to increase capacity.³⁶⁰ The desire to hold an Ijtitma at the appeal site cannot justify the scale of development proposed.
291. The Council's view is based on the appellants' need case, as now advanced, being taken at face value. However, and for reasons already given, the needs

³⁵⁰ CD A1 p.44 para.6.21. CD A9 p.70.

³⁵¹ APT 5.1, para.5.4, p.15.

³⁵² CD A9, pp.61-62.

³⁵³ XX day 6 (11/6/14).

³⁵⁴ APT 3.1A, para.6.41

³⁵⁵ APT 3.1A, para.6.39.

³⁵⁶ APT 3.1B6.

³⁵⁷ JS XX day 6 (11/6/2014).

³⁵⁸ APT 3.1A, para.6.38, page.25.

³⁵⁹ LBN DA, paras.4.38-4.39.

³⁶⁰ APT 1.1B, pp.7-8.

case should be treated with very considerable caution due to the unexplained changes that have occurred. Further Dr Sennett bases his assessment on existing attendance figures. He acknowledged that these baseline figures – both as to normal and peak attendance – were given to him by his client. He has not verified them and apparently – and bizarrely given their importance to the appellant’s case – no recent headcounts have been carried out. The information is at best anecdotal. To compound this, no Trustee has been called to give evidence to the inquiry (unlike the position at the 2011 inquiry) so the opportunity to test these factual matters has not arisen.

292. Additionally the baseline attendance figures given to Dr Sennett and to the inquiry are very considerably greater than the attendance figures derived from the appellants’ own 2010 traffic survey, which indicated attendances of approximately 1,650 on a Thursday and 650 on a Friday and the Council’s own survey of 2014, which showed 494 and 451 for Thursday and Friday respectively.³⁶¹ As such, the baseline attendance at the existing mosque which is asserted and relied upon by the appellants should be treated with very considerable caution.
293. A further point concerns the application submitted and now before this inquiry. That application was submitted in July 2012. Almost one year later, and now one year ago, in June 2013, the appellants, acting through a firm of architects and engineers – Archi-Structure – met with senior officers of the Council and presented an alternative form of development including a mosque as part of a mixed used development with a reduced capacity of 3,000 plus provision of 1,500 for women.³⁶² There is no reason other than to take what is set out in the correspondence from the appellants following on from that meeting at face value (nor did Mr Weatherhead suggest otherwise³⁶³). The case that was being made by the appellants in June 2013 is flatly contrary to there being a need for an actual need for a 9,000 capacity mosque here.
294. Overall the appellants’ case in terms of need provides no reasonable or credible justification for a mosque of a capacity of 9,000. Taken at face value (which it should not be) the evidence presented, at best, justifies a very considerably more modest structure which could easily be accommodated on only part of the appeal site and as part of a mixed use, as indeed policy S10 envisages and as the appellants’ own 2013 scheme recognised was, from their perspective at least, achievable.
295. The proposal also includes an apparent need for 1872 spaces for women.³⁶⁴ This figure was provided by the appellants to their expert witness but he has not and could not, empirically justify that level of provision.³⁶⁵ Further, it is an entirely disproportionate figure given that on Friday in 2031 male and female attendance is anticipated generally to reach 1,031 and on a Thursday in 2013 to reach 2,800. The appellants’ own survey demonstrates that those women whose views were taken were more interested in further childcare and recreation provision than additional prayer facilities in any event.³⁶⁶
296. The 2,000 capacity dining hall comprising 4,483 sq m floorspace is wholly unexplained and unjustified and again represents a capacity simply given to Dr Sennett by his clients. No empirical or evidential justification has been given.

³⁶¹ APT 4.3, paras 2.8 and 2.9.

³⁶² LBN EC4.

³⁶³ PW XX day 11 (19/6/2014).

³⁶⁴ APT 3.1, para.6.58.

³⁶⁵ JS XX day 7 (12/6/2014).

³⁶⁶ CD A9, pg.80.

- By comparison, the existing mosque provides 147 sq m of dining facilities for a 3,000 capacity.
297. Regarding the library, 2,022 sq.m. floorspace is to be provided over three floors and with 100 reading spaces. Again, Dr Sennett provided no justification for this quantum of provision, the figures having been given to him by his clients. Existing Islamic libraries exist including at the East London Mosque, Whitechapel. No assessment has been carried out by the appellants as to capacity at these existing libraries and there is no evidence they are operating at or above capacity. The appellants' needs assessment indicated that only 43 attendees of the current mosque at the appeal site (representing 10% of the 428 who were interviewed) used other Islamic libraries, with no indication of the frequency of that use. The current mosque, Dr Sennett confirmed, has a "small" collection of books.
298. So far as the visitors' centre is concerned, 1,000m² of floorspace is provided as well as capacity for six-classes of schoolchildren within the gallery.³⁶⁷ Again, no empirical or other justification whatsoever has been provided for this substantial facility, as confirmed by Mr Sennett. It was once more simply provided to him by his client.
299. The proposal involves a breach of the development plan, and a serious breach at that. Even if some form of need is identified what cannot be justified is the use of valuable development land, particularly where, by so doing, the opportunity for new houses and other important benefits are lost. Here, the appellants' own case is that in excess of 50% of the designed capacity would be used only once, possibly twice, a year. To plan for that level of use should undoubtedly be described as an inefficient and profligate use of land which should not be supported here through the planning system.
300. To the extent that the appellants maintain a more broadly based case about the extent of provision made for additional religious facilities in the Borough, Mr Sahadevan has explained in evidence that specific provision is made for additional community facilities on 16 of the strategic sites included within the NCS. The Council is also delivering in that eight approvals have been given in respect of mosque and other Islamic facilities in the Borough.³⁶⁸
301. In any event, there is no indication that the appellants will make any additional floorspace at the appeal site available for use by other mosques or religious organisations whether for prayer or otherwise. The suggestion put to Dr Sennett in RX³⁶⁹ that the Council's attitude to a smaller mosque on this site can be gleaned from its refusal of the current application is at best disingenuous; no application has been made for a smaller mosque that does not dominate a mix of uses.
302. In conclusion, the appellants have come nowhere close to demonstrating the need for a mosque and ancillary facilities of anything like the scale which is proposed. The need case, as presented, cannot reasonably excuse the breach of planning policy which has occurred.

³⁶⁷ APT 1.1A, p.28; APT 1.1B, p.9.

³⁶⁸ LBN 5.65.

³⁶⁹ Day 7 (12/6/2014).

A.8 Continuation of the existing buildings

303. Subject to the matters raised in the context of contamination, the Council is content that phasing, and in particular the continued existence of the poor quality buildings can be controlled by condition.

Conclusion on main issue/consideration A

304. The failure to meet the requirements of S10 compromises substantially the strategic and other objectives that the policy is intended to secure or contribute towards. The failure to meet these objectives should be given substantial weight. Moreover, where the appellants allege certain elements of S10 are in fact met, when those claims are properly considered the weight which can be attached to these matters is limited.

B. Impact on highway safety in the area

305. Transport matters arose in two different contexts before the Inquiry. Firstly, there were the transport impacts of the two appeal proposals themselves. Secondly, the appellants raised questions about the transport implications, and requirements, of a policy compliant form of development on the appeal site. We deal here with the first of those below; the second is dealt with under the heading of viability.
306. The Council's objections centre on the fact that the appeal proposal would generate a "*significant and unsustainable number of car borne journeys which cannot be accommodated on the application site or on the surrounding highway network*", thereby giving rise to "*significant overspill parking and parking congestion on streets in the vicinity of the site, thereby prejudicing the availability of on-street parking for local residents to the detriment of local amenity*".³⁷⁰ Highway issues have narrowed following discussions.
307. As TfL have indicated that the existing capacity at West Ham Station can satisfactorily cope with the expected demand from the appeal proposals, the Council no longer objects on the basis of a lack of public transport capacity.³⁷¹ Also the appellants have agreed to fund two sets of junction improvement works. The Council welcomes the appellants' agreement, enshrined in their s106 obligation, to facilitate the agreed works at the Canning Road/Abbey Road and Manor Road/Crows Road junctions, albeit only if Appeal A is successful. As a result, the Council's concerns about the safety of the Canning Road/Abbey Road junction are overcome in the context of Appeal A.
308. The Framework³⁷² contains policies on sustainable transport. Paragraph 32, final bullet point, provides that 'Development should only be prevented or refused on transport grounds where the residual cumulative impacts of development are severe'.
309. Secondly, the Council's own NCS policy on sustainable transport is INF2.³⁷³ It sets out the matters development proposals have to address in order to attract support. Paragraph 8 of that policy provides that '... development proposals will not be supported where they would have an unacceptable adverse impact on the capacity or environment of the highway network'.

³⁷⁰ CD F36, RfR 4.

³⁷¹ Save for a residual concern that bus route 276 may not have sufficient capacity to absorb all potential users during peak mosque use times on a Thursday.

³⁷² CD D1.

³⁷³ CD H33, p.155.

310. Three issues remain in the Council's view (a) the appropriate basis of assessment in terms of traffic impact; (b) the likelihood and acceptability of anticipated car borne mode share and (c) the likelihood and impact of overspill car parking.

B.1 Sustainability

311. In evidence the Council concentrated on the impacts of the proposed development operating at full capacity, while Mr Bellamy assessed the impacts on the basis of a 4,000 attendance. The Council maintains that it is appropriate to assess the development against the higher occupancy figure. As Mr Bellamy accepted in XX,³⁷⁴ once built neither the Council nor the appellants will have any effective control over the number of people attending the mosque.

312. For the purposes of assessment of traffic impact it is entirely appropriate therefore to consider the impact of the proposed development operating above the anticipated attendance of 4,000 and up to and including its operation up to its maximum capacity, namely 10,995,³⁷⁵ as indeed the original Transport Assessment did.³⁷⁶ By way of comparative example, one would not assess the impacts of a 60,000 seat stadium on the basis that it would only attract 30,000 spectators.

313. In these circumstances the Council maintains that the appropriate approach is to assess the proposal against its full capacity, and the failure of the appellants' evidence to do so reduces the weight that can be placed upon it in assessing the likely impacts. In any event, Mr Woodburn also assessed the proposal against lower occupancies, including 4,000.

314. In terms of car borne mode share the reliability of the respective traffic surveys, parking provision and forecast modal share is brought into question. Although separate, the interrelated nature of these issues makes it appropriate to consider them together. A considerable amount of inquiry time was taken up with the modal share issue. Notwithstanding that, the position relating to attendance on Thursday is now settled. The appellants' 2010 survey indicates a mode share of 27% car drivers.³⁷⁷ The Council's 2014 survey, commissioned by JMP and carried out by QTS, indicates 41.3%.³⁷⁸ The appellants' aspiration is for a 20% car borne mode share.³⁷⁹

315. Although the Council was unaware of how the appellant's own 2010 survey was carried out and there was no evidence before the Inquiry relating to its methodology,³⁸⁰ the Council's own survey was nevertheless subject to a considerable amount of analysis and testing. The inquiry was presented with sworn evidence, both oral and documentary,³⁸¹ from Mr Abkari who carried out the survey. His evidence was tested and shown to be robust. He was a palpably honest, straightforward and candid witness.

³⁷⁴ Day 7 (12/6/2014).

³⁷⁵ That figure is higher than the number of prayer spaces, reflecting the fact that members of the congregation will come and go during the course of services.

³⁷⁶ CD C36.

³⁷⁷ APT 4.1, para.8.20.

³⁷⁸ LBN DA, Table 4.3, p.22.

³⁷⁹ APT 4.1, para.8.23.

³⁸⁰ This was a surprising and large omission from the Appellants' evidence, given that their professed concerns about the Council's own survey must apply with greater force to their own survey without such evidence showing those concerns to be misplaced.

³⁸¹ LBN 4.30.

316. Despite the appellants' inference in cross examination that the survey was too complicated to carry out accurately in the manner Mr Abkari described, he was clear that the task was not in fact as complicated as the questioning made out. The appellants expressed concern about the loss of the manuscript tally charts and HD video recording. The sworn evidence of Mr Moore dealing with those matters has now put these concerns to rest. To the extent that the appellants are suggesting foul play was involved, by the Council, JMP, QTS or Messrs Abkari and Moore, that suggestion is strongly refuted and has been demonstrated to be without foundation.
317. The Council considers that there is now no reason to doubt the reliability or accuracy of the Council's traffic survey. That it demonstrated 41.3% car drive mode share can therefore be relied upon as being accurate. Indeed, when compared to the appellants' traffic survey carried out some four-years ago, pursuant to a methodology which is wholly unexplained, we submit that the Council's survey is to be preferred. In these circumstances, the Council invites substantial weight to be given to its own survey results showing that the current use of the mosque results in a 41.3% car driver mode share.³⁸²
318. In these circumstances whether the appellants' reduction of the car borne mode to 20% is remotely achievable is seriously questioned and in the Council's view it is not possible. It is acknowledged that the appeal site has the advantage of excellent public transport links available to it. However, that represents only part of the picture in terms of achieving a reduction in car borne mode share. Mr Bellamy recognised in his evidence that restraint in parking availability was central to achieving mode shift away from the private car. It is demonstrated from the Council's parking surveys that there is a very considerable quantum of available parking within a 10-minute walking distance from the site, and considerably more within a 15-20 minute distance.
319. The availability of this parking is not under the control of the appellants, nor, having regard to the requirement to consult before extending existing CPZs,³⁸³ is it within the control of the Council. As such, although the "carrot" of available public transport is present, the "stick" of parking restraint is not. This must, and will, substantially reduce the ability to reduce car borne mode share.
320. Further, a reduction from 41.3% to 20% is substantially beyond any realistic target which a developer or land owner could hope to achieve. A reduction from between 27%, which reflects the 2010 traffic survey mode share for car drivers, to 20% is, of itself, described as "ambitious" by the appellants,³⁸⁴ and in the Council's view is likely also to be unachievable. Both mode share reductions exceed, substantially, the guidance given in Have Faith in Travel Planning which suggests a 5% reduction over five years.³⁸⁵ The Council do not consider that the appellants' mode share reduction by car borne attendees can be relied on.
321. There is a difference between the appellants and the Council as to the extent of available overspill parking. The Council's survey of 2014 was carried out in the form of a survey and has demonstrated that with the appeal scheme in place there would be in the order of 900 parking spaces available for mosque

³⁸² The suggestion, put to Mr Woodburn in his second XX that he ought to have informed Mr Bellamy of the Council's own survey is not understood. Both parties were engaged in writing their own evidence. The purpose of simultaneous disclosure of proofs is so that both parties become aware of the other's case at the same time – there is no requirement for the Council to apprise the Appellants of the details of its evidence prior to exchange.

³⁸³ LBN DA, para 4.5.

³⁸⁴ CD A7, para.6.5.6.

³⁸⁵ LBN 4.16, manuscript p.115.

users on a Thursday evening.³⁸⁶ Mr Bellamy accepted that this survey was reliable. It should be compared however with the survey apparently carried out for the appellants pursuant to an unclear methodology which observed some 230 available on-street parking spaces.³⁸⁷

322. The operation of the proposed mosque at a 4,000 attendance would result in 1,653 vehicles being generated on a 41.3% car driver mode share. The level of parking would therefore exceed all available parking within a 10-minute walking distance as assessed by the appellants or the Council,³⁸⁸ and indeed all available parking said to exist within Mr Bellamy's 15-20 minute distance.³⁸⁹ Even with a 27% mode share, operation with 4,000 in attendance would exceed all available parking within a 10-minute walk distance, and would only marginally avoid saturating all available parking within a 15-20 minute walking distance. As such, these results demonstrate an unacceptable level of overspill parking. The impact would be all the greater when considered in the context of use at maximum capacity of 10,995 referred to in paragraph 312 above.
323. The appellants' claim that a 20% mode share would not lead to unacceptable parking impact, however, even at that (unrealistic) level only 100 spaces would be left within a 15-20 minute walk distance. However, the point goes further. The result of Mr Bellamy's contention is that in order to secure a 20% mode share, a tipping point must be reached by which parking stress becomes such that people are dissuaded from driving. Mr Bellamy in cross examination described the effect kicking in once "*it gets so bad*".³⁹⁰
324. Before a reduction in mode share can be anticipated, therefore, parking stress must have become unacceptable. That this is the case demonstrates the robustness and correctness of the Council's concerns and in particular that overspill parking will be severe both in terms of its occurrence and its effect. For these reasons it is considered that parking impact arising from the appeal proposal will be severe and will give rise to an unacceptable impact on the highway network.

Conclusion on main issue/consideration B

325. The Council considers that the proper conclusion arising from these issues is that the residual transport impacts of the proposed development are severe and give rise to unacceptable adverse impacts on the capacity and environment of the highway network, contrary to the Framework para 32 and NCS policy INF2.

C. Impact of the previous use of the land (contamination)

326. No party at this inquiry denied that the appeal site is seriously contaminated, and that those contaminants if not properly managed posed a serious risk to human health. As Mr Crowcroft's evidence explains,³⁹¹ for over a century until 1990 the appeal site was used for the manufacture of chemical substances. Although those uses ceased in 1990, the extent of the remediation that took place in the early 1990s remains largely undocumented. Although a capping layer was installed over the site, so as to effectively seal the contaminants below a clay layer, there is no certainty as to the continuity, depth, or effectiveness of that cap. The unauthorised development carried out by the

³⁸⁶ LBN DA, paras.4.13-4.14.

³⁸⁷ CD 36, para.6.6.7, p.67.

³⁸⁸ LBN DA, Table 4.6, pp.24-25.

³⁸⁹ APT 4.1, para.8.19.

³⁹⁰ Day 7 (12/6/2014).

³⁹¹ LBN AA, section 2.

- appellants has operated, it is common ground, to compromise the integrity of the capping layer in the vicinity of the extended mosque.
327. The Council agree that the remediation of the appeal site for the purposes of the main development can be secured by way of conditions. The same is true of concerns over ground water contamination from pile driving. Whilst that is not a problem once the new building is complete the Council has serious concerns about the public being anywhere on the site whilst construction is in progress.
328. The Council considers it is clear that the appellants are unreliable when it comes to complying with conditions concerning the safety of users of the site. The appellants accepted that there had been a failure to comply with the mercury monitoring requirements attached to the 2011 temporary planning permission. In particular they had failed to carry out the required inspection, maintenance and calibration of the equipment, terminating the service of their professional advisers shortly after the permission was granted.
329. In addition they had failed to secure inspection of the gas membrane as required; failed to report the results of monitoring, inspection and maintenance to the Council as required and failed to carry out properly or adequately the badge monitoring of mercury which was required of them. The appellants' professional witness agreed in cross examination³⁹² that it would be right to state that the appellants could not be relied upon to comply with conditions.
330. The risk to public safety is a serious matter. If the appellants cannot be relied upon to meet basic conditions which are necessary to protect public safety then those conditions themselves cannot be relied upon to offer the level of safety and protection for which they were intended. Given the substance of the conditions by the time enforcement action is capable of being taken by the Council, and being made effective through the coming into effect of a breach of condition notice, the harm to which the condition is directed may have occurred. In these circumstances, it is no answer to the appellants' demonstrated unreliability, in terms of compliance with conditions, to submit that this can be excused or mitigated by the enforcement processes available to the Council.
331. The Council is concerned in respect of the presence of the public on the appeal site whilst excavation of contaminants is taking place during the process of construction. The use of the existing mosque during such periods has potential to generate dust emissions as well as hydraulic movements of mercury through and in vapour form out of the soil and into the mosque. Mr Andrews acknowledges that protection of the public on the appeal site will be a challenge. However, he proposes the use, to protect visitors to the mosque, of a range of similar measures, secured by condition, as apply to construction workers.
332. The Council is concerned about the suitability and reliability of such an arrangement not least given the highly toxic contaminants which the construction process may be expected to generate as well as the reliability of the appellants to comply with conditions. For those reasons, it is submitted that continued use of the existing mosque during construction of the development, should Appeal A be allowed, should be prohibited.

³⁹² Day 8 (13/6/14).

Conclusion on main issue/consideration C

333. In all these circumstances, it is appropriate, given in particular that the conditions concern public safety, for planning permission for Appeal A to be withheld on the ground of the risk which continued use poses to public safety due to the potential for mercury ingress.

D. The impact on the character and appearance of the area

D.1 Design philosophy

334. The appellants' design philosophy for the appeal proposal is clear. Mr Owers' approach is to introduce onto the site a "landmark" building.³⁹³ The Design and Access Statement advises that the underlying approach to the Masterplan is that "the buildings on the site should make their presence felt from, and across, the considerable physical barriers that define the site",³⁹⁴ and that "the proposal should provide a key civic building that acts as an architectural and cultural landmark setting the necessary context for the future development desired on neighbouring sites and across the local area".³⁹⁵

335. The appellants accept and acknowledge that it is the prayer hall itself which is the "dominant"³⁹⁶ consideration behind the overall dimensions of the built form.³⁹⁷ In the DAS it is stated that "the greatest demands on the available land area are made by the proposed prayer hall for 9,000, and the arrangement of this space will greatly affect the planning and architecture of the whole site".³⁹⁸ Mr Stewart in particular states that the required area for the prayer hall is the "dominant" consideration within the overall development.³⁹⁹ He agreed that the size and prominence of the building is a product of the client's brief to provide a mosque with 9,000 prayer capacity.⁴⁰⁰ The result is, in Mr Stewart's words, a "large and prominent building".⁴⁰¹

336. He accepted that a prayer hall with reduced capacity would make less demands on the available land area and would "greatly affect the planning and architecture of the whole site".⁴⁰² Mr Owers accepted that he had not been asked to present a design for a lower capacity, which, despite his curious reluctance to agree, would almost certainly have permitted a lesser scale of built development, as Mr Stewart in fact agreed. It follows that if, as we submit below, there is no need for a mosque with such capacity, the impact of the building, its architecture and layout, will be substantially less dominant than that which is proposed.

337. Fundamentally, there is quite simply no policy support for such a "landmark" development on the appeal site which will generate such a profound effect on the surrounding area to be found anywhere in the development plan, and certainly not in S10, as Mr Stewart acknowledged.

D.2 Townscape impact

338. The refusal reason alleges dominance. The visual impact of the appeal proposal is clear to see. The CGIs produced are highly instructive and largely

³⁹³ See the Design and Access Statement (CD A18, introduction and p.80).

³⁹⁴ CD A18, p.82.

³⁹⁵ CD A18, p.80.

³⁹⁶ APT 2.1A, p.33, para.5.3.1.

³⁹⁷ See APT 2.1A, p.44, para.6.3.2.

³⁹⁸ CD A18, p.60.

³⁹⁹ APT 2.1A, para 5.3.1, p.33.

⁴⁰⁰ APT 2.1A, para 6.3.2, p.44.

⁴⁰¹ APT 2.1A, para 5.7.3, p.37.

⁴⁰² JS XX day 6 (11/6/2014).

speak for themselves.⁴⁰³ From Manor Road the appellants concede that "*the proposed development will become the dominant feature in this view*".⁴⁰⁴ This is clear to see; it will dominate the street scene and skyline. The same could and should easily be said of the appeal proposal's impact on views from the Greenway,⁴⁰⁵ and Mr Stewart accepted in cross examination that it would become the "substantial and dominant feature" from this view.⁴⁰⁶ He also accepted it would become the "*dominant feature*" from the busy node of West Ham station. It will be one of the first things visitors to West Ham will see upon reaching the area through either West Ham station or from the Greenway.

339. Significantly, Mr Stewart accepted in cross examination that it would be within the range of reasonable responses to regard the appeal proposal as "*overbearing*" and having a degree of dominance that was "*harmful*".⁴⁰⁷ It is precisely those conclusions that the Council commends to the Inspector and Secretary of State.

D.3 Impact on heritage assets

340. The appeal site is adjacent to the Three Mills Conservation Area (CA). The Conservation Area Character Appraisal and Management Proposals make it clear that views into, and from, the CA are themselves part of the significance of the CA, as are views from the adjacent Greenway.⁴⁰⁸ It defines the "special interests" of the CA as including the Channelsea River, the Greenway and the bridge over the Channelsea River along with other footways.
341. The Townscape Appraisal Map illustrates a number of views from and through the CA which would be affected by the appeal proposal. To take the view from the Channelsea Bridge along Channelsea River as an example. This view engages three of the "*special interests*" of the CA as set out above. The appeal site is directly adjacent to this viewpoint, and the CGI demonstrates its impact on this view,⁴⁰⁹ which the Council considers is wholly harmful. The same is true of the view along the Channelsea River from the south east,⁴¹⁰ where the impact of the development is described as providing "*a key civic building that acts as an architectural and cultural landmark, setting the necessary context for the future development desired on neighbouring sites and across the local area.*"⁴¹¹
342. These views of themselves and also the appellants' description of them demonstrate that the development does not "*preserve or enhance the setting*" of the CA, as required by the CAMP, nor indeed does it preserve or enhance the character and appearance of the CA as a whole. Indeed, as has been demonstrated, the intention of the proposal is to effect substantial change, and rather than preserve the character and appearance, to set "*the necessary context*" for future development across the area.⁴¹² The appeal proposal would therefore have a substantial adverse impact on the CA for the reasons set out in the Council's evidence.

⁴⁰³ CD C25.

⁴⁰⁴ CD C25, p.7.

⁴⁰⁵ See CD C25, p.8.

⁴⁰⁶ Day 6 (11/6/2014).

⁴⁰⁷ PS XX, day 6 (11/6/2014).

⁴⁰⁸ CD H26, p.7 to 9, and 15.

⁴⁰⁹ CD C25, p.10.

⁴¹⁰ CD C25, p.16.

⁴¹¹ CD A18, p.80.

⁴¹² CD A18, p.80 (see also the introduction: "*The mosque creates its own context, as all significant public or religious buildings should. It sets itself apart from the prosaic and mundane, establishing a new and aspirational order for future development, both of the immediate surroundings and of the wider context*").

343. Regarding the listed buildings, the appeal proposal will result in substantial harm in Framework terms to two assets (West Ham Pumping Station, the Gasholders at Bromley by Bow) and less than substantial harm to a further five (Abbey Mills Pumping Station, the House Mill, the Clock Mill, Customs House and the cobbled roadway). Although it was suggested in cross examination that Mr Deely had applied the wrong test in assessing harm, the link between the setting of an asset and its significance is clear and was explained by Mr Deely. Mr Deely clearly applies the relevant test correctly and reaches a conclusion that there will be substantial harm to heritage assets.⁴¹³
344. As to how that harm is to be weighed in the balance, the Framework makes it clear that consent for development resulting in substantial harm should be refused *"unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss"*.⁴¹⁴ Where less than substantial harm is identified, the Framework requires that harm to be *"weighed against the public benefits of the proposal"*. Mr Deely has explained that there would be, in his view, substantial harm to the significance of two listed buildings as well as to the CA. There are no public benefits which would justify that harm in the Council's view. Added to this is the effect and requirements on the decision maker of sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990.
345. Section 66(1) was recently considered in *Barnwell Manor Wind Energy Ltd v East Northamptonshire District Council* [2014] EWCA Civ 137. There, the Court of Appeal makes it clear that although the assessment of the degree of harm is a matter for the decision maker's planning judgment, once harm has been found, the decision maker is obliged to give that harm "considerable importance and weight" in the planning balance. Substantial harm in Framework terms aside, s.66 and s.72 requires considerable weight to be given to the general harm which Mr Deely has identified would be caused to heritage assets. This is itself should be sufficient to justify refusal of planning permission.

Conclusion on main issue/consideration D

346. Taken together the disbenefits of the adverse and significant visual impacts of the appeal proposal along with the harm it would cause to the significance of both the CA and various listed buildings are not outweighed by the benefits (such as they are) of the appeal proposal.

Conformity with the National Planning Policy Framework

347. Regarding the presumption in favour of sustainable development, the first element of the presumption in the context of decision taking is to *"approve development proposals that accord with the development plan without delay"*.⁴¹⁵ It is common ground that the appeal proposals do not accord with the development plan and in particular site specific policy S10. This element of the presumption in favour of sustainable development therefore does not arise. Indeed, and as already submitted, the first of the "core planning principles set" out in the Framework which *"underpin both plan making and decision taking"* is that planning should *"be genuinely plan-led"*.⁴¹⁶ The appeal proposal is acknowledged to be in conflict with the development plan and as

⁴¹³ LBN CA, para. 3.41.

⁴¹⁴ CD D1, para 133.

⁴¹⁵ CD D1, para.14.

⁴¹⁶ CD D1, para.17.

such conflicts with this core principal of the guidance contained in the Framework.

348. The second thread of the presumption in favour of sustainable development arises where a development plan is out of date.⁴¹⁷ The appellants claim that policy S10 of the NCS is out of date on the basis that development envisaged by that policy is not viable. They therefore suggest that the appeal proposal should be approved "*unless any adverse impacts of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in this Framework taken as a whole*".⁴¹⁸ For the reasons set out elsewhere in these submissions, the appellants' case as to lack of viability (and consequently their case that S10 is out of date) is wholly lacking in substance, reality and credibility. If that is accepted by the Secretary of State (as it should be) then the second element of the presumption is not engaged.

Other material considerations

349. The appellants acknowledged that the proposal is in conflict with the development plan but put forward several things that it claimed were material considerations that ought to justify planning permission; being granted in this case. The need for a mosque in this location and the viability of a policy compliant scheme has been considered in looking at the first main issue. The appellants also claimed that the proposal 'delivered other benefits' and these are contained in their planning witness's proof of evidence.⁴¹⁹
350. The library, dining hall and visitor's centre have been dealt with in considering the need for the mosque proposed. There is also claimed to be the provision of an improved public realm. However, a riverside walk and provision of publicly accessible space, as well as routes within and across the site, would be an expected component of any new development on the appeal site and, in particular, any policy compliant development. As Mr Stewart confirmed⁴²⁰ there is no reason why a policy compliant development of high quality of design and architecture could not be delivered on the appeal site. Moreover, the currently proposed restrictions on the access and use of the public realm in the latest draft of the planning obligation suggest that substantial, onerous and regular controls will be applied to access to substantial parts of the public realm in any event. The weight to be attached to the delivery of an improved public realm is therefore limited.
351. Thirdly, much is made of the proposed two multi-use games areas (MUGAs). However, no assessment has been carried out to identify a deficiency of playing pitches in the area. Such a deficiency may be thought doubtful given the proximity of the Queen Elizabeth Olympic Park and the facilities there offered both now and in the future. In any event, the south-western tail of the appeal site, proximate to the blast zones associated with the Bromley by Bow Gas Holders, and associated restrictions on development,⁴²¹ would be ideally suited to playing space provision if desired within a policy compliant scheme. Little weight too should be attached to this element of the scheme.
352. Finally, it is said that the appeal proposal will regenerate the appeal site. This suggested benefit brings into sharp focus the issue of deliverability. The scheme is said to cost approximately £137 million. However, no direct

⁴¹⁷ CD D1, para.14.

⁴¹⁸ Put to SS in XX on day 3 (5/6/2014).

⁴¹⁹ APT 7.1A, paras 6.34 to 6.48.

⁴²⁰ Stewart XX day 6 (11/6/2014).

⁴²¹ LBN 5.66, with which the Appellants' agreed.

evidence has been given as to where this substantial sum will come from beyond an assertion that the "community will come together to fund the new centre."⁴²² Who precisely this "community" is and what its resources are is wholly unexplained.⁴²³ £137 million is an enormous sum of money. The regeneration of the site in the form of the appeal scheme will not come forward without that sum being available. Absent any clear and convincing and reliable explanation as to how this substantial sum will be forthcoming, its realisation is doubtful and so therefore is the achievement of the regeneration of the appeal site and consequential benefits which the appeal proposal is said to offer.

353. One of the features of the appellants' case, and one we have previously commented on, is the absence of any evidence from a trustee or other spokesman for the appellants to explain, in the form of evidence which can be tested, how their aspiration will in fact be realised. Absent such evidence, the regeneration that may be achieved through this appeal scheme should be given little weight.
354. Finally there is the question of 'retrofitting'. The appellants suggest that policy compliant development may be retrofitted into the south-western corner of the appeal site in place of the multi-use games areas. No plan demonstrating how this retrofitting can occur has been produced.⁴²⁴ No commitment by the Trust to so retrofit in the future has been given, and their past approach towards development on the site provides no indication that they would in fact do so.
355. Furthermore, once playing facilities have been provided, the prospect of planning consent being granted for redevelopment for an alternative purpose is, in practice, remote. The TLP policy 3.19B provides expressly that "proposals that result in a net loss of sports and recreation facilities, including playing fields, should be resisted."⁴²⁵ This reflects the NPPF.⁴²⁶ If, as the appellants claim, there is a need for additional playing pitches in the area, then the prospect of unseating such uses in favour of housing at some point in the future becomes all the more remote. The prospect of policy compliant retrofitting should also be given no weight in favour of the scheme.

Appeal B – temporary planning permission for continued use of existing buildings

356. The appellants' case is made on the basis that they should be given an opportunity to reconsider the future of the site in the event that Appeal A is dismissed. It is common ground that to grant planning permission would conflict with policy S1. Also, for the reasons set out for the Inspector in the 2011 appeal decision, the continuation of the existence of the current buildings on the appeal site would cause continued visual and townscape harm and would be unsustainable in terms of energy efficiency.⁴²⁷
357. Further, for the reasons given by that Inspector, it would perpetuate the continued use of an unsafe junction, namely Abbey Road/Canning Road. There are therefore strong development plan policies and other material considerations which weight against a further grant of temporary planning permission. The appellants have proposed highway and improvements including at the junction of Canning Road/Abbey Road if Appeal A is allowed;

⁴²² CD A10, p.114.

⁴²³ In XX on day 11 (18/6/2014) PW was unable to identify what was meant by "community".

⁴²⁴ As Mr Owers confirmed in XX on day 6 (11/6/2014).

⁴²⁵ CD H34, p.109.

⁴²⁶ CD D1, para.74.

⁴²⁷ LBN 5.5.

the Council considers this improvement is needed for Appeal B to be successful.

358. The safety concerns in relation to the Canning Road/Abbey Road junction relate not to capacity or the operation of the junction, but the safety of users, both vehicle occupants and pedestrians seeking to cross Abbey Road to reach Abbey Road DLR station and the footpath on the northern side. The Council's concerns in respect of the safety for both pedestrians and vehicles at the Canning Road/Abbey Road junction apply equally with respect to Appeal B as they do to Appeal A.
359. In 2011 the Council resisted a grant of further temporary planning permission as it would perpetuate the "inertia" which has accompanied the appellants' occupation of the appeal site since very early days. Planning permission was granted in 2011 in essence to give the appellants one last opportunity to bring forward policy compliant development. They have manifestly and resolutely failed to do so. Therefore, to allow a further period of authorised temporary use would simply continue the inertia which the Council have long feared would come to pass.
360. The continued use by the appellants of the appeal site is bound simply to lead to a further deferment of the achievement of the development plan aspirations for the appeal site. That consequence cannot now possibly be justified. To grant what would now be a third temporary planning permission would also be flatly contrary to the Secretary of State's guidance, set out in the NPPG, that a second grant of temporary grant of planning permission, and therefore a fortiori, a third grant of temporary planning permission should not be forthcoming.
361. If the Secretary of State considers it appropriate to provide a further period for the appellants' to consider their position, the appropriate route is to secure that through a modest extension to the time period for compliance with the enforcement notice. That said, the Council does not consider there is any reasonable evidential basis for the Secretary of State so to do.

Appeal C – the Section 174 (enforcement) appeal on grounds (f) and (g)

362. It has been agreed that the Secretary of State should be invited to modify the requirements of the Enforcement Notice to allow retention in physical terms of the car parking area given the protection which it affords from the contaminated ground beneath. A form of wording has been agreed and submitted. To effect such a variation would cause no prejudice to the appellants. Insofar as the Secretary of State agrees to make this variation, it is agreed that the ground (f) appeal would fall away.
363. On ground (g) a modest extension as requested by the appellants for compliance has been agreed. To affect this extension it is agreed that the ground (g) should formally be allowed, thereby securing a formal modification of the enforcement notice to reflect these agreed extensions of time.

The case for Newham Concern Limited

Introduction

364. All three appeals are opposed and the Council's case is supported. NCL agrees with the four main issues/areas for consideration identified but has other concerns which are also considered in detail below. NPA like NCL have sought to represent the views of 'the local community' concerning this proposal but it supports the development whereas NCL object to it.
365. Mr Bilal Hassan gave oral evidence.⁴²⁸ He admitted that he was a regular attendee at the Riverine Centre and had been throughout its duration on the site; and the petition of 'local residents' amassed only 110 names, most of whom were mosque attendees too.⁴²⁹ Indeed, the question asked by the petition refers only to the sports facilities and not to the mosque which is the bulk of the proposal. Accordingly, such material, and, indeed the NPA's evidence should not be treated as an objective representation of local opinion and should be viewed with great caution.
366. NCL is a community interest group which was formed due to local concerns regarding the perceived impact of proposed plans for a large mosque on the Riverine Site. The main driving force and campaign director is Mr Alan Craig, a former Newham Councillor for Canning Town and a long-time borough resident. NCL has, for the last six years, sought to raise awareness of the proposals and to stimulate debate about the future of the site.⁴³⁰ Both in the determination process and at this inquiry NCL has served as an umbrella under which local residents have sought to make their concerns known.
367. At this inquiry these have been articulated by Mr Fitzgerald and Miss Harris who both gave oral evidence to the inquiry to voice their concerns about the appeal proposals as well as the problems experienced in relation to the current temporary mosque use. They are the only local residents who have given evidence to the inquiry who have no connection with the Trustees.

Appeal A – outline application

368. The Secretary of State is requested to note at the outset that although, throughout their evidence, the appellants' witnesses have claimed that the mosque is to address the needs and wishes of the 'community'⁴³¹ they have never defined that community. It is NCL's contention that the 'community' spoken of by the appellants is the narrow faith group of Muslims following Tablighi Jamaat whose followers are largely not local to the Borough of Newham (as will be explained in the 'need' section below). As such, it would be inaccurate to report that the proposed mosque development is desired by the local community.
369. Further, the appeal proposals were turned down unanimously by all of Newham LBC's democratically elected representatives on the planning committee. Of the 3,074 validated objections, the vast number were from within the Borough and a significant number of the responses received stated that (i) the mosque would be too big for the site and the area and (ii) that they wanted a mixed development.⁴³² It further needs to be recorded, as

⁴²⁸ The statement from Mr Irfan Bagas of Happy Shopper had been obtained by the NPA and, in any event, Mr Bagas (according to Miss Harris) was not a local resident.

⁴²⁹ Day 9 xx by JPS and Inspector

⁴³⁰ Martin Fellow's NCL 1.1 Appendix 1

⁴³¹ e.g. Peter Weatherhead in xx by NCL – Day 10

⁴³² CDF33/39-40

mentioned by Miss Harris in her oral evidence,⁴³³ that there has been a lack of awareness of this appeal inquiry within the local area and a mistaken belief that finality had been achieved in December 2012. This is reflected in the very limited attendances at the inquiry and absence of wider representations.⁴³⁴

370. The fact that the proposal is not a 'community focussed scheme' is further evidenced by the wholly inadequate nature of the consultation which was conducted on the proposal. In February 2012 the appellants carried out some consultation on a mixed-use scheme, the consultation results of which are, in themselves, suspect.⁴³⁵ The proposal before this inquiry is entirely different. As Mr Fellows remarked in his proof: *'Indeed, the manifest failure to effectively engage with the local community borders on contempt for the process of meaningful engagement. Therefore, it is unsurprising that the proposals themselves are so manifestly inappropriate.'*⁴³⁶

A. Impact on the planned use of the site (Policy S10)

371. The inspector set out eight matters relevant to this main issue and five of these are considered below (using the same reference numbers as used in setting out the cases of the appellants and Council). The Council dealt with A.1- Planned housing provision; A.2 - Planned employment opportunities and A.5 - Convergence and no further comment is made upon those matters in detail.

A.3 *Planned West Ham local centre*

372. Policy S10 is the starting point for the consideration of this appeal and the content of the S10 allocation in the NCS reflects the representations of the Trustees through the Examination process.⁴³⁷ However much the appellants may wriggle over the issue of viability, at that stage in the development plan process the allocation requirements were found to be sound.⁴³⁸ It should also be borne in mind that we are still within the early stage of that development plan period (2012-2027) with achievement of S10 identified for the middle to long term phasing period i.e. 2017/18 to 2026/2027.
373. Secondly, the continuing need for a new local centre around West Ham Station remains and was undisputed in evidence. Indeed, as highlighted by Mr Fitzgerald a balanced mix of community facilities is paramount.⁴³⁹ He said that the local area was *'virtually devoid of shops, restaurants, sport & leisure facilities, public services and contrasts starkly with the Olympic Park/Westfield developments to the north and the emerging Canning town developments to the south. A faith based facility with the immense size of the proposed mosque precludes these needs being met.'*⁴⁴⁰
374. Thirdly, as Mr Fellows pointed out the achievability of this facility is limited to the contributions made by the NCS allocated sites S10 and S11 due to the disposition of allocations within the 'Arc of Opportunity'.⁴⁴¹ Accordingly, the effective removal of S10 as one of these contributors significantly reduces the deliverability of this facility; and whilst the GLA, as promoters of the S11 site

⁴³³ Day 9, am

⁴³⁴ Other than Mr Terry Brown, Day 8

⁴³⁵ Statement of Community Involvement (CDA16); e.g. Fitzgerald (NCL3.3)

⁴³⁶ Martin Fellows, Proof of Evidence, NCL 1.1, para.6.41.

⁴³⁷ CDH/179

⁴³⁸ CDH/206

⁴³⁹ Kevin Fitzgerald, Rebuttal Proof, NCL 3.7 para.3.2

⁴⁴⁰ *Ibid.*

⁴⁴¹ Day 8pm referring to plan at H33, p.37

have aspirations to bring forward a housing led scheme of 2,500-3,000 houses no material has been presented by the appellants as to how S11 could/would bring forward the local centre. The pessimistic prognostications on viability of Mr Stephenson could suggest the continuing lack of achievability of this requirement.

375. Fourthly, whilst the appellants now offer pedestrian and cycle linkages as a contribution these all have to be seen in the context of the essentially mono use of the site. Furthermore, given the nature of the religious activities, the times of services and other gatherings, the likelihood of "spin-off" trade would be limited, further affecting viability. Real harm would arise from the removal of the ability of the site to contribute to the local centre.
376. As has become apparent from the s.106 undertaking, the sports facilities are intended to be managed upon the basis of a private membership arrangement subject to "rules", the full extent of which are unknown at this stage.⁴⁴² Whilst the appellants have acknowledged that such "rules" must not be discriminatory, clearly, they will be reflective of the customs and practices of the appellants. Accordingly, their wider public benefit will be constrained.

A.4 Permeability

377. The starting point for consideration of this aspect is the physical presence of the mosque itself and the extent of its coverage. This is helpfully illustrated both in the appellants' own "linkages" plan⁴⁴³ and in Mr Deely's "pinch points plan"⁴⁴⁴. Accordingly, the very nature of the proposal runs counter to the concept of the development being permeable; and its connectivity is constrained by the current and continuing geographical containment of the site and the physical inability of the proposal to deliver meaningful links e.g. to West Ham station.
378. Also, there is the system of regulation under the s.106 undertaking. Other than what is identified as the "Crows Road Connection", which will be kept open at all times, all other "public realm" elements will be subject to a variety of restrictions.⁴⁴⁵ Accordingly, the attractiveness as well as the ability of the public to use these various connections is bound to be commensurately affected. Indeed, all the foregoing must also be viewed in the context of a landowner and operator with strict religious practices and codes of dress and behaviour.

A.6 Viability

379. Given that the proposals are promoted upon the basis that they are the only regeneration scheme capable of coming forward upon this site it is necessary to examine the viability and therefore 'deliverability' of the proposed mosque. The Framework (para. 173) emphasises that pursuing sustainable development requires careful attention to viability and costs in plan-making and decision taking. As such, concerns regarding the deliverability of a scheme are plainly relevant when considering this proposal. Indeed, if the Trustees' scheme is not deliverable then it would result in a 6 hectare site next to West Ham station lying fallow and in poor condition for several more years. This must be a material consideration of great weight in the planning decision to be made.

⁴⁴² S.106 Undertaking, Appendix 2: Terms and Conditions of Access to the Sports Grounds

⁴⁴³ CD B51/ drawing D008

⁴⁴⁴ LBN 3.1.

⁴⁴⁵ S.106 Undertaking, Schedule 2, Part 4, para. 4.3

380. Accordingly, it is a conspicuous omission that the appellants have failed to provide any evidence to the inquiry as to how the scheme will be delivered. This is all the more the surprising, given the emphasis on the economic benefits that would arise from the construction project.⁴⁴⁶ All the Inspector is advised, from the Operational Statement within the Environmental Statement,⁴⁴⁷ is that "The community does not underestimate the financial task ahead of it"; but since Mr Weatherhead was unable to advise as to what was "the community" in the context used within this Statement⁴⁴⁸ it must remain at large as to how the necessary funds would be raised and over what period.⁴⁴⁹
381. It is also of note that the appellants' technical report (Hillson Moran) estimates that the remediation of the site will be £6,383,250⁴⁵⁰ the scale of essential "up front" costs should not be under-estimated even before the construction programme begins in earnest over its proposed three phase timescale.
382. Indeed, the financial capabilities and ability of the Trustees to deliver an extremely ambitious scheme is all the more questionable when one considers that they are a voluntary organisation, with no charitable status⁴⁵¹ and no publicly accountable structure or other basis. Accordingly, there is considerable doubt over whether this scheme can be delivered; and, as such, this aspect must be given substantial weight against granting permission in the overall balance.
- A.7 Need*
383. The appellants are required to demonstrate a need rather than an aspirational demand driven by the proposed design and function of the building. In this context, the evidence of Dr Sennett requires particular scrutiny, and, its findings viewed with caution.
384. Firstly, as acknowledged in the Ecorys "need" report⁴⁵² Tablighi Jamaat has no formal registration process and no official membership in consequence of which membership statistics are unknown. Secondly, the figure of 2,000 for large Thursday evening attendances was not done from an independent headcount (indeed Ecorys has never undertaken "headcounts"⁴⁵³) but, essentially, from a rough calculation of the capacity of the current mosque.⁴⁵⁴ Thirdly, the only empirical survey work undertaken by Ecorys was in summer 2010 and by way of interviews of existing male Mosque worshippers.⁴⁵⁵ Fourthly, the figure of 9,000 was provided by the Trustees in February 2012 and the task of Ecorys was to justify it.⁴⁵⁶ This they have sought to do by expressing the addition, speculatively, in terms of "suppressed demand" and future demand based on demographic projections.
385. Accordingly, when Dr Sennett predicts that, with population growth, by 2031, average attendance levels for Thursday evenings will be 2,800 and for Friday

⁴⁴⁶ Apt 7.1a, para. 5.39

⁴⁴⁷ CDA9/114 (para. 12.2 etc)

⁴⁴⁸ Weatherhead in xx by NCL; para. 11.6

⁴⁴⁹ Kevin Fitzgerald, Proof of Evidence, NCL 3.1, paras 16 and 17.

⁴⁵⁰ APT6.1B, appendix 2, p.62

⁴⁵¹ 'A Guide to Tablighi Jamaat in UK and London', para.6.7

⁴⁵² CDG7/158 ; CDA9/59

⁴⁵³ Sennett in xx by LBN, Day 7am

⁴⁵⁴ Sennett and Weatherhead in xx

⁴⁵⁵ Sennett in xx by NCL Day 7 am

⁴⁵⁶ Ditto. See also Owers in xx by LBN and Appendix 1.1B2 (Trustees Adopted Brief)

prayers, 1,330, with an attendance of 4,200 on peak days⁴⁵⁷ a degree of confidence can be placed on the accuracy of those figures. However, the upper figure still does not truly reflect "local need" (a better indication of which is given by the Friday prayers figure). Thereafter, it becomes a matter of speculation as to what extent there is a genuine need.

386. If the intention is to enable the once or twice annual Ijtamas to take place for the anticipated 9,000 attendees⁴⁵⁸ then that is not a true reflection of "need". In any event, either an additional temporary facility could be constructed⁴⁵⁹ or an alternative venue hired to facilitate the desired "group experience". Indeed, from a sustainability perspective, a limit on the amount of purpose built accommodation must be desirable, given that the stated catchment would continue to include the whole of the South East, East Anglia, Oxfordshire, Cambridgeshire, Hertfordshire, Bedfordshire, the West Country, Plymouth, Southampton and Portsmouth.⁴⁶⁰
387. In that context, the position in respect of women is even more blurred. The Ecorys Need Report (2012) reports need as a fixed constant of 1870,⁴⁶¹ again a figure provided by the Trustees⁴⁶², which, of course, happens to be the capacity of the dedicated space for women within the proposal. No empirical research was undertaken by Ecorys regarding this sector of the community other than some anecdotal survey work in 2010;⁴⁶³ and yet this section of the Muslim population will also grow.⁴⁶⁴
388. Given the religious requirement for separate prayer space for women it must follow that the Trustees are desirous of placing a cap on the limit of attendees from one part of the Muslim 'community' for operational reasons or are, seemingly, indifferent to this element of need in the context of the proposals. Ecorys struggled with this aspect and was forced to conclude that the majority of visitors on both Thursdays and Fridays would continue to be men and the views of current attendees and comparable ratios in other large scale mosques.⁴⁶⁵ Ironically, this is to be contrasted with the Al Samarraie 2013 proposal of a facility for 3,000 men and 1500 ladies;⁴⁶⁶ and if, indeed, he was "parachuted in by Dewsbury"⁴⁶⁷ to try and resolve matters post injunction then this reveals a willingness, when pressed, to embrace a greater degree of flexibility currently lacking in the appeal proposals.
389. In the context of planning policy, this limitation on women worshippers within the proposals runs counter to that found in the Framework (paras. 69, 70), the TLP⁴⁶⁸ and the NCS (INF8). Permitting such a large mosque with such a limitation would only exacerbate that degree of imbalance.

A.8 Continuation of the existing buildings

390. Given the planning history of this site it is submitted that certainty and finality should now prevail and that the current use should cease.

⁴⁵⁷ Sennett Rebuttal APT 3.3, para. 2.14

⁴⁵⁸ Sennett Proof, para. 6.9; APT 3.1B, para. 6.5

⁴⁵⁹ As contemplated in the Trustees Adopted Brief or at the Morden Mosque

⁴⁶⁰ APT 3.1B, Appendix 6: 'A Guide to Tablighi Jamaat in UK and London' para.3.19

⁴⁶¹ CDA9/93

⁴⁶² Sennett in xx by LBN

⁴⁶³ Sennett in xx by NCL

⁴⁶⁴ CD D6 4.6A

⁴⁶⁵ CDA9/91 & 93

⁴⁶⁶ LBN EC - letter dated 7th June 2013

⁴⁶⁷ Weatherhead in x, Day 10am

⁴⁶⁸ See Fellows policy refs at paras. 5.20-5.26

B. Impact on highway safety

B.2 Sustainability

391. National planning policy is clear that development decisions should take account of whether opportunities for sustainable transport modes have been taken up (NPPF, para.32). This sentiment is supported by local policy INF2 of the NCS.
392. That policy states that *'Development proposals will not be supported where they would have an unacceptable adverse impact on capacity or the environment of the highway network. Where applicable, proposals must be accompanied by Transport Assessments and monitored travel plans which show the likely impacts of trip generation, and which include; acceptable, robust, monitored proposals to counter or minimise potential impacts identified, to include 'smarter travel' strategies and plans; and proposed measures to facilitate and encourage more widespread walking, cycling and public transport use.'*⁴⁶⁹
393. The parties accepted that the proposed site has a PTAL rating of 6a. However, the proximity of the site to public transport links and the opportunity for their use does not automatically make the site sustainable. As stated above, the Framework states that sustainable transport modes should be 'taken up' (para.32). The appellants cannot, therefore, rely solely on the availability of opportunities for the use of public transport. It is clear that an ineffective travel plan which pays mere lip service to the requirement to have one will not suffice.
394. The evidence has shown that sustainable modes of transport are not being taken up by those currently using the mosque. The appellants' Transport Assessment uses figures from 17 and 18 June 2010.⁴⁷⁰ It recorded that of those using the site on the Thursday gathering: 27% were car drivers, 45% were car passengers, 1% cycled and 26% walked or took public transport. For Friday prayers the figures were: 20% car drivers, 35% car passengers, 1% cyclists and 1% walked or took public transport.⁴⁷¹
395. By comparison, the Council's independent traffic survey conducted by QTS⁴⁷² on Thursday 13 March and Friday 14 March 2014 recorded that on Thursday evenings 41.33% attended the mosque as a car driver, only 3.78% as a car passenger, 1.33% cycled and 53.56% walked or took public transport.⁴⁷³ On Fridays this was recorded as: 24.17% car drivers, 12.22% were car passengers, 1.67% cycled and 61.94% walked or took public transport.⁴⁷⁴
396. There was argument about the reliability of each of the surveys. With regard to the 2010 survey the appellants were unable to confirm where the enumerators were standing, whether there was any raw data, how many enumerators there were and the process by which the data was collected.⁴⁷⁵ This lack of information and the blind reliance upon a four-year old survey which discloses nothing regarding its methodology is in stark contrast to the reliability of the Council's survey.

⁴⁶⁹ Newham Core Strategy, CD H33

⁴⁷⁰ CD C14, chapter M1, page 63.

⁴⁷¹ *Ibid.*

⁴⁷² Appendices LBN 4.12, 4.13, 4.14, 4.15

⁴⁷³ LBN DA table 3.2. NB the walking figure represents all those walking final leg of journey to Canning Road. It includes those drivers who have driven some of their journey and then parked off site.

⁴⁷⁴ *Ibid.*

⁴⁷⁵ Bellamy xx LPA, day 7

397. The first point to note is that it is up-to-date (conducted on 13 and 14 March this year). Second, on request, the Council has tendered in evidence one of the enumerators (Mr Abkari) who conducted the traffic count and gave a thorough explanation of how it was done.⁴⁷⁶ During cross examination Mr Abkari explained he had no real difficulty with the count and that he was experienced in the job.⁴⁷⁷
398. If one affords the appellants the benefit of any doubt surrounding the veracity of their figures and takes their 2010 survey at face value, one can see that the current Travel Plan⁴⁷⁸ (approved by LBN in 2011) is clearly failing. Travel by car-borne modes has increased and similarly, the number of car passengers has fallen. This is reflected in the accounts given by Mr Fitzgerald and Miss Harris and their fellow local residents.
399. Further, there is nothing to suggest that the draft Travel Plan⁴⁷⁹ which accompanies the appeal proposals will be able to reverse the unsustainable modes of travel being used by worshippers at the mosque. On behalf of the appellants, Mr Bellamy, claimed that the proposed travel plan will reduce the modal split to 20% of those attending being car drivers and 40% being car passengers.⁴⁸⁰ This represents a reduction of car drivers by over 50% and an increase of car passengers by over 600% based on the Thursday figures from the 2014 survey. This is wholly unrealistic.
400. The suggested measures include briefings at the starts of prayer sessions, notice boards and leaflet distribution.⁴⁸¹ These are mere aspirations and there is nothing to suggest that they will be effective. In NCL's view the appellants have tacitly acknowledged this in their suggestion that a controlled parking zone ('CPZ') may be necessary.⁴⁸² Mr Bellamy acknowledged under cross-examination that the imposition of a CPZ was not within the appellant's control and would require a capital sum to fund it. It is noted that provision for any capital sum has not been included within the appellants' unilateral undertaking.⁴⁸³
401. NCL consider therefore, that no weight can be put on the travel plan advanced by the appellants as meeting the identified harm from significant reliance on the motor car as a primary transport mode. Further, the likelihood that the proposed development (along with any temporary permission) will continue to attract a high percentage of car borne visitors must weigh heavily against each of the appeals.
402. On behalf of the local residents Mr Fitzgerald and Miss Harris gave evidence to the inquiry on this aspect. Both highlighted the problems arising from the use of the current temporary mosque. Both recounted having access to their driveways restricted by over-lapping cars or being blocked.⁴⁸⁴ She stated that *'When I have complained there have been no apologies. Rather, with a degree of disdain that I have found offensive, I have been told, now, on three occasions, "why don't you move house if you don't like us parking here", when I complained of my driveway being blocked.'*⁴⁸⁵

⁴⁷⁶ Cf Statutory Declaration of Mr Malik Abkari and Work Sheets, appendix LBN 4.30

⁴⁷⁷ Mr Abkari, xx Apt, day 9

⁴⁷⁸ 'Draft Full Strategic Level Travel Plan', CD A7, July 2012, para 1.2.3

⁴⁷⁹ 'Draft Full Strategic Level Travel Plan', CD A7, July 2012

⁴⁸⁰ Apt 4.1A para 8.23

⁴⁸¹ CD A7, para 8.3.2

⁴⁸² Apt 4.1, para 8.5

⁴⁸³ CD H36

⁴⁸⁴ NCL 5.1, para.6

⁴⁸⁵ NCL 5.1, para.6

403. She also said *'Indeed, the continuing and lasting impression that we have, as existing residents, is that the mosque and its users really do not care about us. Therefore, I am really concerned that such an attitude will continue if the big mosque comes to be built; and despite assurances about a sustainable Travel Plan we have no confidence that it would be policed.'*⁴⁸⁶
404. Given the current high modal share of car drivers outlined above and the inefficacy of the proposed travel plan, the problem will only get worse for the amenity of the local area. If there is, say, a peak of 4,000 worshippers attending the proposed mosque in 2031⁴⁸⁷ and the modal share of car drivers continues to be 41.3% then this would result in 1652 cars (41.3% of 4,000) visiting the site. As only 300 of these can be accommodated on site this leaves 1,352 to park in the local area. This number greatly exceeds the available spaces in the local area; and it is highly optimistic that such experiences would result in drivers switching on a permanent basis to alternative transport modes. Indeed, it was accepted by Mr Bellamy that only once car driver numbers reduce to 20% would the area be able to provide sufficient parking.⁴⁸⁸ Meanwhile, the problems would continue.
405. Given the inefficacy of the current and proposed travel plan, the Secretary of State can have no confidence that the continued use of the temporary mosque and the use of the proposed mosque, if given permission, will not lead to continued and increasingly significant amounts of parking stress in the local area. This material consideration should also weigh heavily against the scheme.

C. Impact on the character and appearance of the area

406. NCL considers that the proposed mosque is a mono-use development which fails to meet the requirements of national and local policy in that it harms local character, the Conservation Area and heritage assets.
407. Core Strategy policies SP1, SP3 and SP5 require development to firstly, respond to heritage, cultural and infrastructural assets (SP1 and SP5); secondly respond to the character of the borough's districts, neighbourhoods and quarters (SP1); thirdly, address local character and the specific attributes of the site, seeking to reinforce or create positive local distinctiveness, whilst securing integration and coherence with the local context (SP3); and fourthly, address the need to conserve and enhance designated and non-designated heritage assets (SP5).
408. The Design and Access Statement lists 'local design principles' as being: the Abbey Mills Pumping Station and the Bazelgette semi-detached houses, and the Three Mills. However, as Mr Fellows highlights: *'one of the significant design characteristics of the Conservation Area is the articulated pitched roofs and articulated facades of the significant buildings.'*⁴⁸⁹ The proposal cannot be said to have responded to any of these features contrary to the policy objectives listed above.
409. It is clear that the aspirations of the appellants have never been to respond to local character; for as the Design and Access Statement states the intention that the 'proposals provide a key civic building that acts as an architectural and cultural landmark, setting the necessary context for the future

⁴⁸⁶ NCL 5.1, para.6

⁴⁸⁷ APT 3.1A, para. 6.68.

⁴⁸⁸ Bellamy, xx LPA, day 7

⁴⁸⁹ NCL 1.1 para.6.18.

development desired on neighbouring sites and across the local area.⁴⁹⁰ Therefore, as form, here, follows function then this building is rightly described by Mr Fellows as 'a massive monolithic box designed to enclose the minimum space required to accommodate the applicant's aspirations.'⁴⁹¹ Accordingly, even if the Islamic design references were to work on such a large scale they cannot be guaranteed due to the outline nature of the proposal and the absence of a commitment on the part of the appellants to deliver them. Therefore, they cannot be given material weight.

410. The development sits on the edge of the Three Mills Conservation Area. The Conservation Area Character Appraisal makes clear that 'the setting of the conservation area is very important and development that impacts in a detrimental way upon the immediate setting and longer views, into and from the conservation area, will be resisted.'⁴⁹² It was admitted by Mr Stewart on behalf of the appellants that one effect of the development on the Conservation Area is on views from the Greenway and Channelsea Bridge.⁴⁹³ From the CGIs of these views it is clear that the proposed mosque will be the dominant feature in the landscape and result in significant adverse visual effects which merit considerable weight in the planning balance.
411. Also meriting significant weight in the planning balance is the harm the proposal causes to nearby heritage assets. Section 66(1) of the Planning (Listed Buildings and Conservation Areas) Act 1990 makes it clear that '*In considering whether to grant planning permission for development which affects a listed building or its setting, the local planning authority or, as the case may be, the Secretary of State shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.*'
412. In *East Northamptonshire DC v Secretary of State for Communities and Local Government* [2014] EWCA Civ 137, the Court of Appeal distinguished the section 66(1) and section 72(1) tests from that in section 70(2) Town and Country Planning Act 1990. Where a listed building or its setting is affected by a proposed development the decision maker should not treat those effects as an ordinary material consideration to be weighed in the balance. Instead the decision maker '*should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise.*' (per Sullivan L.J. para.29).
413. NCL, via the evidence of Mr Fellows and that of the Council, draws attention to the proposal which will result in considerable harm to the setting of local heritage assets within the Conservation Area. The harm to the settings brings with it consequent harm on the assets themselves and it is submitted that this further weighs against a grant of permission.

NCL's overall conclusion/balancing exercise

414. Paragraph 7 of the Framework sets out the economic, social and environmental roles to be performed by sustainable development. It is instructive that in applying these roles to the appeal proposals the following emerge.

⁴⁹⁰ CD A18,/80.

⁴⁹¹ NCL 1.1 para. 6.19.

⁴⁹² CD H26, para 2.1.5.

⁴⁹³ Stewart, xx LPA, day 6.

415. *The economic role:* Whilst the construction project could generate jobs during that phase, the volunteer basis of operation of the mosque and its associated facilities would not lead to any new jobs. Furthermore, because of the nature of the facility there are no certainties of "spin-off" through patronage of local shops and other facilities; and the appellants have not raised this as a benefit. The provision of a massive refectory facility will severely limit any spin off to local restaurant facilities that might be expected on a local centre. In contrast, the failure to deliver the S10 allocation for the site would frustrate the wider and lasting economic benefits from the housing and employment opportunities from a mixed use development.
416. *The social role:* Whilst the provision of the mosque and associated facilities would meet a need of a section of the local and wider community there is no certainty that this would support its social and cultural well-being, given the nature of the proposed user and its religious and social practices.
417. *The environmental role:* Whilst the construction of the proposals would result in the de-contamination of the site and the achievement of built development upon it, the nature of the end user would be to attract large numbers of visitors, many of whom would need or desire to travel by car with consequent adverse effects on climate change.
418. All the above is, of course, in the context of a scheme which the appellants have not demonstrated that they could deliver. Moreover, this is on land for which there is a development plan allocation which is neither out of date nor one demonstrably incapable of achievement. For these reasons, the planning balance weighs against the grant of permission; and the Inspector is invited to recommend to the Secretary of State that the appeals are dismissed.

Nature of the proposal and its user

419. An additional matter raised by NCL is the nature of the proposal and its user. On day 1 of the inquiry (3 June 2014) the Inspector, having received submissions from the parties, ruled that the planning consequences which flowed from the nature of Tablighi Jamaat as the user of the mosque were capable of being material considerations in the planning decisions to be taken by the Secretary of State in these appeals. It is NCL's case that the presence and use of a mosque of the size proposed would be both insular and exclusive such that its use runs contrary to planning policy.
420. The relevant planning policy can be found at both national and local level. The Framework states that facilitating social interaction and the creation of healthy and inclusive communities is a major tenet of planning policy (para.69). The TLP mirrors this objective in that it requires design which creates a more socially inclusive London (Policy 3.5). At the local level the NCS Policy SP1 promotes healthy, stable, mixed and balanced communities and SP3 seeks mixed use areas providing accommodation for living, community and workplaces to secure integration and coherence in the local context.
421. In terms of guidance, DCLG's publication 'Creating the conditions for integration'⁴⁹⁴ is instructive too. It states that '*Place is a key factor in integration. The long-term presence of a highly diverse population is generally an indicator of good integration and a strong sense that different people get on well. But this can be undermined and even reversed by a range of factors, for example if groups within the local community work and socialise separately...*' (page 7, para.3) (emphasis added).

⁴⁹⁴ NCL 4.1 – Mr Orr's Appendix 3

422. It also states that *'Integration problems may be caused if people feel that they have little opportunity to sort out problems or grievances affecting their lives, either themselves or through public bodies, or they think that they are being treated unfairly or being discriminated against. This risk is compounded when unplanned separation and segregation occurs. Mainly because of the way houses become available in local areas and the tendency for new migrants to live close to each other, some people live only with others from the same ethnic background. Such segregation can reinforce fear of resentment of other people and cultures and can lead to trapped fearful and inward-looking communities.'* (page 22, point 4) (emphasis added)
423. When evaluating the appeal proposals and whether they will contribute to integration and community cohesion it is important to bear in mind the extraordinary scale and dominant physical presence of the proposed mosque. Combined with the configuration of the site, such an intentionally large and dominating built form would exacerbate the exclusive nature of the proposals and sense of exclusivity that they would have.
424. The Design and Access Statement is unapologetic about the scale and intended impact of the development. It states that *'The mosque creates its own context, as all significant public or religious buildings should. It sets itself apart from the prosaic and mundane, establishing a new and aspirational order for future development, both of the immediate surroundings and of the wider context.'*⁴⁹⁵
425. It goes on to state that *'The proposals provide a key civic building that acts as an architectural and cultural landmark, setting the necessary context for the future development desired on neighbouring sites and across the local area'.*
426. Furthermore, the design and location of the building has not been set up to encourage integration and community cohesion. As touched upon already, neither the geography of the site nor the appeal proposals encourage or facilitate connection for the local community. Although there will be two points of access, the mosque building will stand between them both, squarely on a key desire line. In effect, the site would remain an island of separate development.
427. Whether or not this proposal will become the new headquarters for Tablighi Jamaat within the UK, after Savile Town Dewsbury, it is self-evident that the proposed buildings are intended to reflect the significance of the organisation and the religious practices which it espouses. The limitation on the dedicated space for women within the mosque is, by way of example, reflective of its position on the issue of gender inclusivity, or, rather, its permissible limitations.
428. In contrast with the current temporary mosque it is the scale, as well as the permanence of the appeal proposals, and, the identifiable social consequences that are capable of flowing from them that need to be carefully reviewed. Put another way, the Inspector has to ask himself whether this is the type of use and user which would encourage plan-led integrative re-generation.
429. Insofar as the findings of the 2011 appeal decision are a material consideration upon this aspect, only limited weight should be placed upon them for the following reasons. First, the decision of the 2011 inspector was solely in regard to a temporary, two-year permission for a mosque on the appeal site whereas this proposal is for a permanent building of a much more significant

⁴⁹⁵ CD18

- size and impact as has been detailed above. Second, NCL immediately questioned the findings of the Inspector by way of a letter to the Planning Inspectorate dated 25 October 2011⁴⁹⁶ calling into question their legitimacy. Third, this Inspector has heard expert evidence from different witnesses which has, itself, been the subject of cross-examination.
430. It should also be noted that whilst NCL has presented oral and written evidence on the nature of Tablighi Jamaat before this inquiry the appellants have limited their evidence to the appendix attached to Dr Sennett's Proof despite being well aware, both from NCL's Statement of Case, as well as discussion at the Pre-Inquiry Meeting, that the point would be pursued. Accordingly, this failure represents firstly, a tacit acknowledgement that such evidence would support NCL's case; and/or a refusal to engage with critical appraisals of the sect and the proposal.⁴⁹⁷ Either of these potential motivations speaks volumes as to the likelihood of this group not using the mosque in the furtherance of integration and community cohesion.
431. Dr Taylor⁴⁹⁸, chief executive of Lapido Media, the Centre for Religious Literacy in World Affairs, gave her expert opinion to the inquiry on the nature of Tablighi Jamaat and on whether, in her opinion, the development of the proposed mosque would result in an 'inclusive' and 'cohesive' community.
432. Dr Taylor is in a unique position to provide such an opinion given her contact with and research into Tablighi Jamaat. She explained to the inquiry, both in her proof and also in oral evidence, how Tablighi Jamaat are *'not interested in surrounding society; they are encouraged to view it as unwholesome. The whole thrust of Tablighi Jamaat is purification: a return to a pristine version of Islam untrammelled by contamination by the world around them or other religious influence, even other forms of Islam.... They ban social contact with non-Muslims. Anything that is less than a total allegiance to Islam is a deviation from Allah's ordained plan – and to be resisted – by definition.*
433. She went on to say that *'The effect of this ethos is inevitably centripetal, rather than centrifugal. It spins in on itself, creating enclaves or ghettos, and a separatist ethos. Consolidation is reinforced as ordinary Tablighi Muslims buy houses within the purview of a mosque or markaz, for the guidance and reassurance they seek.'*⁴⁹⁹
434. When challenged by the appellants in cross-examination that the planning system was not there to prevent such a gathering Dr Taylor reminded that the facilities here were also a training centre, similar to the one in Delhi where people would come in from all over the country and Europe "to train in anti-worldly methodology". In answer to the subsequent question that it was legitimate for the planning system to provide for that which those people consider was needed to fulfil practices and teaching she pointed out that we do not live in isolation from other factors; and that as a key contributor to the government's cohesion delivery framework was integration the provision of a centre teaching the opposite was 'a salient consideration for a planning inquiry'. She also went on to add that her concern was that "this group alienates itself".

⁴⁹⁶ NCL 2.6 appendix 5 and response at appendix 6.

⁴⁹⁷ As appears from the tone of the Deen & Co letter dated 16.05.14

⁴⁹⁸ Dr Taylor gave evidence to the inquiry in place of Tehmina Kazi who unilaterally withdrew her evidence, upon the basis of undisclosed "assurances" in a notification sent by the NPA late afternoon of Monday, 2nd June, immediately prior to Day 1 of the Inquiry.

⁴⁹⁹ NCL 2.1, paras 6 and 7

435. Mr Orr (the only other witness apart from Dr Taylor to have visited Savile Town, Dewsbury) provided empirical study work that bears testimony to this phenomenon. Whilst Mr Orr acknowledged that he could not, through his research, demonstrate a specific causal link with the presence of the Tablighi Jamaat mosque he stated that the rise in the Muslim population from 78% (2001) to 91.85% (2011) within this part of Dewsbury was more than co-
incidence, and, that the presence of the Tablighi Jamaat mosque a "taken".⁵⁰⁰
436. NCL's concern is that the permanent presence of so large a mosque and associated facilities on the site would encourage a similar social phenomenon to develop. Given Dr Sennett's evidence that the 2011 Census revealed that Newham already has the highest number of Muslims for any London local authority and the second highest of all UK local authority areas,⁵⁰¹ there is real potential for this type of phenomenon to occur within West Ham if the appeal proposals are implemented.
437. In respect of Tablighi Jamaat's treatment of women Dr Taylor highlighted that the core text for women in the sect was Heavenly Ornaments by Maulana Ashraf 'Ali Thanwi. Her evidence quoted Metcalf's analysis of this book, which states that 'A scholarly annotated translation of this work notes that it takes for granted that women are socially subordinate to men'. Indeed, religious knowledge is commended for women so as to be better able to 'manage' them. The ideal is for women to remain at home, secluded from all but family and selected female friends. Thanwi "lists women among men's possessions. Following the hadith [hadith], he identified dominant women as a sign of the Last Day...women [generally] are the greatest number in hell...A woman *is to follow her husband's will and whims in all things, to seek his permission on all issues...*"⁵⁰²
438. Ms Tehmina Kazi's evidence from the 2011 Inquiry⁵⁰³ and appended to that of Dr Taylor to this inquiry also explains Tablighi Jamaat's discriminatory view of women. She highlighted (a) '*Tablighi women are required to cover their entire body with a burkha and face veil*'⁵⁰⁴ (b) '*A woman must always be accompanied by a male relative ... in public places.*'⁵⁰⁵ and '*...female members of the Tablighi Jamaat are kept secluded, and the values surrounding this seclusion are transmitted to their children. Therefore, the female members of this movement – as well as future generations- do not integrate into mainstream British society.*'⁵⁰⁶
439. Accordingly, *female members of the Tablighi Jamaat are kept secluded, and the values surrounding this seclusion are transmitted to their children. Therefore, the female members of this movement – as well as future generations- do not integrate into mainstream British society.*⁵⁰⁷
440. The extent to which access to the public realm areas and to the sports facilities will be subject to Islamic dress codes for women is at present an unknown, and, one over which planning control would be unable to regulate on a lasting basis. Given those circumstance, NCL considers that both the nature of the use as well as the user are, in this instance, material considerations which

⁵⁰⁰ Orr in answer to the Inspector (Day 5 am)

⁵⁰¹ Apt 3.1A, para.6.43

⁵⁰² NCL 2.1 para.28

⁵⁰³ NCL 2.3 Appendix 2

⁵⁰⁴ *Ibid.* para.5

⁵⁰⁵ *Ibid.* para.6

⁵⁰⁶ *Ibid.* para.14

⁵⁰⁷ *Ibid.* para.14

should be given significant weight and are considerations that weigh against granting the appeal proposals.

The Case for Newham Peoples Alliance⁵⁰⁸

441. The Newham Peoples Alliance (NPA) is an organisation that aims to represent the interests of local residents regarding development of key local areas. The priority is to ensure that the development will meet the needs of local residents including those of faith groups and the wider community.
442. The community behind this proposal is part and parcel of Newham and is deserving of facilities that cater for its needs. It has wanted the appellant to develop the property with the wider community in mind. The appellants have wanted to do so but proposals have been repeatedly been turned down by the Council. They could have sold up and moved on but Newham is special to them and they want to invest in this site.
- A. Impact on planned use of the site
443. The Council insists on a broader mixed use development despite many studies carried out on the infrastructure and land conditions, including development feasibility studies, conclusively demonstrating that a more comprehensive scheme than what is proposed is simply not viable.
444. Even so the proposals have been adapted to include community sports facilities and the majority of the land will be publicly accessible, adding riverside walks, gardens, library and a visitors' centre. Other facilities will be shared with the wider public community when available. The overwhelming feedback during the pre-application process supported the development and there was little support for the larger mixed use scheme.
445. The Council has argued that the site should provide employment opportunities and homes for the area. A largely residential development would not do that and the site is in an awkward place for a dominant retail or commercial presence. New housing in London has a prevalence of high-rise studios and apartments that are unsuitable for families and diverse communities even if they were affordable. The feasibility of affordable housing for the local community is undermined by the poverty, average wages and levels of unemployment in Newham that make it virtually impossible to envisage a local market for flats in a high density scheme here. That would attract foreign investors and not the local community.
446. It is ironic that the Council have a desire to develop this site for housing given its previous attempts to sell off Carpenters Estate less than one mile away and proposals to demolish the housing there; residents have already been removed from some parts. If there is a need for housing as claimed, protecting the existing rights of nearby residents would surely be more financially viable.
447. There is a great need to accommodate the faith needs of Muslim communities in Newham, not just the Riverine Centre's owners. Since 2012 planning permission has only been granted for one small mosque extension. There is also evidence that more accommodation is needed by the site occupiers. It already attracts a large congregation on a regular basis.
448. Places for Muslim worship in Newham where there are over 150,000 potential users remain scarce and inadequate. Less than one mile from this site hundreds turn up at Carpenters and Docklands Centre for Friday prayers, having to use washroom facilities not intended for ablution that are inadequate and a burden on others who make the sports hall available for prayer use.

⁵⁰⁸ CD H32

B. Impact on highway safety in the area

449. The Council has raised concerns about the traffic the proposal would generate. The traffic flow would be far greater from even a moderate density housing scheme with a single point of entry. Surveys that the Council have extrapolated its estimates from form the basis of its objection and they overestimate the reliance on cars for transport to and from the site. With a maximum nightly attendance of 4,000 and 20% coming in cars individually, the generated demand for parking is 800 spaces. There are 300 spaces on site and so there is only a requirement for 500 off site whereas the capacity in the locality is 900 spaces within a ten minute walk. There is not a parking problem.
450. Concerns have also been raised about safety due to congestion around the site but the Council is wrong to say the accident record on Abbey Road is unusually high. There is a daily traffic flow of 10,000 vehicles and there have been only 9 reported accidents in 5 years over a 1.1 kilometre length of road. Increased pedestrian footfall should not result in an undue risk of accidents. Significant traffic levels only occur on Thursday evenings and Friday afternoons which are outside conventional highway peak hours on both days. In contrast a mixed use development would generate traffic throughout the day, every day, much of which would coincide with peak hours.

C. Impact of previous use (contamination)

451. The site historically was industrial. If the site is too contaminated for the proposed use the same must apply to the planned use. Tremendous resources will be put into decontamination and remediation measures before it is developed. NPA also believe some of the Council's concerns on this issue are overstated. There has been no conclusive evidence about mercury contamination. The data from monitors does not show air concentrations that have exceeded the limit that would result in suspension of the use on site. There is no proof to show, as the Council put it, that users are breathing up to 100 times more mercury than in 2011. The Council and appellants should look to solving this matter together without bias.

Nature of the proposal and its user

452. Much has been said about the appellants and the Muslim community behind the centre and a lot of it has been alarmist and in some cases bigoted. As the community supporting the Riverine Centre, Tablighi Jamaat has gone through a lot of effort to invest in Newham and engage with the Council to develop a suitable scheme for its supporters' needs and the wider community. If there are concerns about social cohesion in Newham it makes no sense to keep telling a large sector of it that no matter how hard it tries, there will be no space in Newham suitable for the facilities it needs to stay there.
453. The Localism Act 2011 stated 'the time has come to disperse power more widely in Britain today'. It passes power to local authorities allowing more freedom for communities to pave ways for their own projects. Nowhere is the desire for local people creating a bigger, more harmonious society more evident than in the plans here; a project that will see only a minority of the land being used for the building of a mosque and a significant proportion used for the public good.

Conclusion⁵⁰⁹

454. The Council's evidence does not reflect the needs of the community. The Council is ignoring the needs of 100,000 Muslims living in the borough. It would be fair to say that the majority of residents and businesses surrounding the site are in favour of this development. The housing needs the Council refers to can be met quite easily on neighbouring sites which do not have the same level of land constraints as the appeal site does.
455. The traffic flow issue which was raised has been resolved through negotiation and the Council could have done what is being proposed; it was within its control. The Council should also be responsible for monitoring its roads to adequately resolve any parking issues that arise.
456. The proposal will be an historic landmark in which architect, planners and professionals of the highest calibre have been hired and they will ensure that the site will be one for everyone to be proud of. This is a unique opportunity to transform land which has been empty for 40 years into an eco-friendly community space consisting of sports and recreational facilities alongside a community centre for the whole community.

⁵⁰⁹ CD H48

Cases put forward by Other Interested Persons

*Mr T Brown*⁵¹⁰

457. I have lived in Newham all my life – over 50 years. My main concerns are with public transport which I use for work and I worry about the development. We have 59 mosques in the borough and 138 within a 30 minute journey of Stratford. The East London mosque is only four miles way and it can have 4,500 people; the Al Madina in Victoria Road, Barking is five miles away and can take 3,400. The one in Waltham Forest's area can take 6,000 and it's only six miles away. I do not see the need for another one that is so big.
458. The area is not short of parks or sports facilities and they are only in the proposal because the Council have asked for them to be included; they are not necessary. There are 23 parks in Newham run by the Council plus facilities run by the Corporation of London like West Ham Park.
459. Parking is a problem as there are only 300 spaces on site and that is about half of what is needed. At maximum capacity of about 9,300 worshippers using the appellants' figures (6.35% by car) 593 will come by car and almost half won't be able to park on site. A 2009 report commissioned by TfL states that 16% of all London journeys are made by car and I consider it is more accurate than the figures in the appellants' fanciful travel plan.
460. Locally there is little parking available so it causes a problem. West Ham station at night is not a nice place. The DLR station (Abbey road) is in an unsafe area. Bus routes serve the area but can only take 60 people and there are no more than 6 buses per hour on the one route serving the centre. How can 6,000 worshippers get away; the DLR and underground were hopeless for the Olympics and this could be the same.

*Mr M H Mubeen*⁵¹¹

461. The facilities and services being provided by the Riverine Centre are of great benefit to the community. It gives them a forum to discuss values, to teach from experience, learn from other cultures and spread the message of peace. In doing so it provides a vibrant hub for the community and was our inspiration to start a Muslim cemetery in Hainault, Ilford (I am a trustee of the Gardens of Peace Muslim Cemetery Trust there).
462. Large funerals occur and the centre provides a place for prayers prior to burials. Its closure would be an immense blow to the Muslim Community's funeral prayer needs and bereavement counselling. The organisation has operated since 1944 at Commercial Road in Aldgate and provides funeral prayers from inception until this day; those services are immensely valuable.

*Written Representations*⁵¹²

463. There were some 2512 representations received in response to the appeal notification letters by the time the inquiry opened on 3 June (and 20 more by the close). Of these 2532 representations 17 were objections and the rest were in support of the proposal. Of those submitted in support 805 were in the form of a round robin letter that a signature had been added to; 633 were a simple support slip with a signature and 1077 were letters. The number of addresses was considerably less as each signatory was counted as an

⁵¹⁰ CD H35

⁵¹¹ CD H47

⁵¹² CD H56

- individual and whilst most were either single occupants or partners there were many with multiple signatories and one with eight signatories from an address.
464. Of those representations in support 1099 were from seven east London postal districts that are either wholly within Newham or spread across to neighbouring boroughs and 176 were outside London altogether. Fifteen of the 17 objections were from those same seven postal districts (these figures ignore the 118 supporters and the other 5 objectors whose addresses were not given).
465. From those objecting to the development, the following issues were raised; increased traffic and congestion, the need for housing to go where planned as there was a shortage, the proposition that there was no need for another mosque, and the fact that the site should serve whole community not just part of it and these have been covered by the main parties in their cases. There were also a couple that remarked that the development would be prominently used by men and would make the area less safe.
466. Almost all the supporters were standard letters with signatories added or single sentence individual letters simply expressing the writers' support for the proposal. In particular the need for more prayer space in the area was put as was the proposition that the development would be a good project for the whole community.

Section 106 undertaking⁵¹³

467. At the inquiry an unsigned copy of a unilateral undertaking was discussed by the parties and the formally signed undertaking, as agreed, was signed on 4 July and submitted to the planning inspectorate on 8 July 2014. Discussions took place at the inquiry regarding the contents of the undertaking and various amendments were made to the original draft. The provisions which are contained in Schedule 2 are set out below.
468. The obligation concerns highway improvement works, safeguarding of certain access land, the delineation and provision of land to be a public realm and the implementation of a travel plan. Their lawfulness and appropriateness to this application have not been questioned by any party although the Council does have reservations about the effectiveness of some matters.
469. Plans 4, 5 and 6 attached to the undertaking set out the various highway works in detail which involve (as set out in Appendix 2):
- A Canning Road/Abbey Road
- Convert the existing priority T-junction to traffic signal control, including pedestrian facilities
 - Construct a raised table throughout the junction area
 - Set back the London Underground Limited access gate
 - Close off the existing private access into the engineering works in the south west corner of the junction
 - Improve footway surfacing around the junction and,
 - Construct a new access into the engineering works from Abbey Road
- B At the Manor Road/Alan Hocken Way junction convert the existing mini roundabout to a traffic signal control including:
- Installation of signal equipment
 - Installation of two toucan crossings and associated cable works
 - Provision for urban traffic control connection
 - Works to traffic island
 - Kerb realignment to widen footway and narrow carriageway
 - Resurfacing the junction and other civil works; and,
 - Contingency
470. An area of land is identified on Plan 2, and for a period of 15 years from the 4 July 2014, in order to facilitate access to the Parcelforce site to the south of the railway, no application for planning permission will be made if the implementation of that permission would prejudice the creation and maintenance of access between the appeal site and the Parcelforce site.
471. An area of land is identified on Plan 3 that is defined as Public Realm and within that defined area different types of Public Realm are provided including sports facilities, a riverside walk, the Riverine Garden and the Riverine Square. Various access rights and access times apply to different elements of the Public Realm and these are set out in detail in paragraph 4 of Schedule 2.
472. Appendix 3 sets out in detail the terms and conditions of access to the sports grounds. Included are opening hours of the facilities, provision for charging for their use, block booking availability for schools and other groups and the requirement to be a member for which a fee shall be payable.

⁵¹³ CD H57

473. The undertaking also includes the requirement for a Travel Plan to be submitted which shall be substantially in accordance with the Framework Travel Plan submitted with the planning application. It includes details concerning access to the car park, a modal split (with an upper limit of 20% by car) for events involving more than 1000 attendees, a requirement to review the Travel Plan periodically, carry out surveys, and use reasonable endeavours to ensure that the provisions of the Travel Plans are complied with.

Planning Conditions⁵¹⁴

474. All parties discussed what conditions it might be appropriate to attach to any permission that the Secretary of State might give working from a draft list prepared by the Council. They were considered separately for Appeals A and B. Conditions were not relevant regarding the enforcement appeal (Appeal C) as only grounds (f) and (g) were being considered. The conditions had been prepared and for the most part were agreed between the two main parties and all were discussed against the background of an extant unilateral undertaking put in by the appellants (even though it had not been signed at that juncture).
475. The proposed conditions are set out in full (as amended and renumbered by me in the light of the following paragraphs) in the Schedule of Conditions attached to this report and the reasons for their imposition are included in that schedule. I have considered them in the light of the published Planning Practice Guidance and the six tests in paragraph 206 of the Framework; comments on some are set out below on those where there was disagreement or the conditions were particularly important.

Appeal A – the outline application

476. Whilst the application is in outline form and only the layout is included for approval at this stage, very detailed drawings were submitted for all aspects of the development. I stated at the Pre Inquiry Meeting and at the opening of the Inquiry that these 'parameter plans' were more than sufficient to enable a proper assessment of all the issues to be made and, indeed, to enable the Secretary of State to make a decision on the proposal.
477. The 'agreed' list of conditions does include one (condition 2) that requires the development to be carried out in accordance with those details – the plans are listed in the condition (which does not of course prevent some alternative design being put forward for consideration in the future). Those plans were also the basis of the environmental assessment and the Council stated that they needed to be included in any permission; the appellants did not dispute that view.
478. Conditions 5 to 7 requiring the submission of details concerning boundary treatments, the phasing and construction management scheme and the submission of samples of materials had all been worded as 'condition precedent' type conditions and the appellants stated that was not necessary. Whilst I agree in respect of conditions 5 and 7 it seems to me that the details set out condition 6 ought to be submitted before any development commences.
479. That condition sets out that the sequence of how the development will be undertaken and how the impacts of construction will be mitigated including the impact of construction waste and its disposal. That is particularly important for those living close to the site and certainly the details of how it is intended

⁵¹⁴ CD H42 and H43

to proceed should be considered, detailed and approved before work commence. It may well be that practicality necessitates changes (which can also be approved) and 'better' ways of doing things may emerge once work is going on but I agree the condition should be worded as set out.

480. The appellants objected to condition 8 which requires details to be submitted and approved regarding the hours of operation. They stated that the building is a place for religious practice and that can be a 24 hour use (some churches have midnight mass). I agree that when a religious building can have its doors open to would be worshippers is not something that should be controlled and generally is not in other places of worship. This institution may wish to only open its doors at restricted times or at all times but that should be its choice and not imposed.
481. NCL and the Council were concerned about traffic noise and parking away from the site if the building was open all hours. Whilst I appreciate that may be a concern, the practices here do not involve late night activity and I do not consider there would be an unacceptable loss of amenity to nearby occupiers as a result of attendance at the mosque. The sports facilities are controlled by what is in the s106 undertaking and will only be open from 0900 to 2100 hours each day.
482. The appellants objected to the constraints imposed by condition 11 which required there being no amplified equipment that would result in noise audible outside the premises – the original had referred just to that from use as a place of worship but said at the inquiry that it should apply to all users. The appellants argued that it was not aware before of any suggestion that this could be objectionable; there had to be some amplification system within the building. They stated that the Council just wanted no sound emanating from the buildings.
483. I agree that it would be usual to have some form of amplified sound in a structure of this size if there were to be gatherings of the size planned for. I consider that there are dwellings near enough to be disturbed if sound was uncontrolled but it would be normal to require any noise to not go beyond the boundaries of the site rather than the different buildings themselves. In my view it would be entirely appropriate to include such a condition to prevent any nuisance arising.
484. Condition 12 it was agreed was a standard Environment Agency condition and concerned details that had not been investigated yet. The Council agreed that all bar the first two sentences could be deleted and it was unreasonable to request any of the other matters/details before work commenced.
485. Similarly condition 24 was a standard English Heritage condition and in this instance the parties agreed that whilst there might be archaeological remains on the site they would be below the safety 'cap' which should not be cut through unless absolutely required. I agree that it would not be appropriate bearing in mind the toxic nature of the site to have archaeological work undertaken here and will not list this condition for inclusion.
486. Also after discussion it was agreed that the contents of proposed condition 25 were actually appropriate for an informative rather than a condition and I agree this should be deleted.
487. The appellants questioned whether condition 34 was justified and met all the tests but agreed that the principle could not be argued with. The condition requires details to be submitted for a report on the state of the flood defence walls at the site and their life expectancy, proposals for repair and replacement

where necessary and the impacts of any works and measures to mitigate those impacts. In my view the condition is justified and does meet the six tests for imposing conditions.

488. The appellant suggested three others concerning measures to protect occupiers from air quality problems; a sampling regime (of the air) and crowd marshalling codes if that was not properly covered by condition 3 in Appeal B. The Council agreed that these conditions were needed, probably on both permissions and I consider it would be appropriate to include such conditions.

Appeal B – Continued use of existing buildings temporarily

489. Conditions were also discussed regarding the temporary permission appeal. The first condition restricts the permission to two years and the appellant stated that the requirement to put in a timetable for reinstatement should be three months before expiry rather than 12 months. The Council stated that it was more comfortable with 12 months but accepted that there was now a scheme for the overall development in place. I consider that three months would be sufficient lead in if the site is to be vacated and in any event it would take some time to work out an agreed scheme if everything has to be cleared bearing in mind the ground conditions that exist on site.
490. It was agreed that condition two regarding amplification should be amended to say the same as the condition on the outline application. The appellant stated that the requirements as set out in condition 8 regarding the seal of the gas resistant membrane could not be undertaken like that. The Council agreed, stating that as one was in place, all that was required was monitoring.
491. Condition 11 proposed using the land to park 300 vehicles on Thursday evenings, 200 on Friday's between 1100 and 1500 hours and 100 at any other time. There were complaints that parking was taking place in surrounding streets and causing some loss of amenity to nearby residents. With that in mind I agree with the appellant that as there are 300 spaces on site then full use of them should be made whenever possible. The Thursday evenings when people are more likely to be at home and it is outside working hours are the likely times of disturbance. If 300 is acceptable at that time of day I consider it must be acceptable at other times. I understand the Council's wish to discourage travel by car to the site but I do not consider it can be justified on this temporary permission.
492. Conditions 12 and 13 required further landscape improvement to be undertaken and also details of painting or rendering to the buildings to be approved. The appellant stated that these were not necessary in the short timescale being permitted; the Council thought the conditions were reasonable and necessary even on a two year temporary permission. Planting would only be in pots so that would be very limited – any scheme involving planting would be unreasonable as there would be no time for the plants to mature. In those circumstances I do not consider that it would be appropriate to ask for further planting.
493. Similarly the buildings were not in a poor condition when I inspected the site; they were plain and rather mundane but for such a short period and bearing in mind the amount of built form on the site I do not think it would be reasonable to impose such a condition.
494. The wording of the catch all condition at the end included references to the Enforcement Notice and needs rewording but it is necessary, as always, to include a condition that requires the use to cease if there are conditions requiring further details to be approved and implemented as part of the

permission granted. The requirements of the Notice have to come into effect if the conditions are not complied with. The parties were agreed on that point. Part ii) of condition 11 has to allow the three months for submission, the two months for the Council to make its decision and the six months an applicant is allowed after a refusal or non-determination in which to make an appeal.

Inspector's Conclusions⁵¹⁵

495. The main issues/considerations for the Secretary of State were set out in detail on page 10 of this report (paragraphs 26 - 33) so are not repeated here. They had been discussed and agreed both at the PIM (in general terms) and at the start of the Inquiry (in more detailed form).

Appeal A – outline application

Issue A – impact on the planned use of the site [90-136, 223-308, 375-394, 447-454]

A.1 Planned housing provision [95-102, 224-242, 375]

496. The land is allocated for a mixed use, and the major part of that is medium density family housing provision. Newham needs to provide 40,000 homes by 2027 as part of the London Plan (a figure agreed by the parties); that is 2500 per year every year until then. These figures are minimum figures which the Council must through its Local Plan seek to exceed. Also this figure is set to increase as there are higher targets in the Mayor's Further Alterations to the London Plan. The Government's Mansion House speech given by the Chancellor during the course of the inquiry. The objective was to increase and accelerate housing provision through building on brownfield sites in London and he reinforced the need to increase in provision.
497. The Council aims to achieve this through the role of its Arc of Opportunity and the identified Strategic Sites of which the appeal site is one (number S10) of 28 such sites. These sites are what the Council describes as the main building blocks for the delivery of its Spatial Strategy. The release of any of these sites without yielding any new homes would compromise the Council's position in trying to meet this target. It would also be contrary to the use that is expected to be made of this brownfield site. It would also be the loss of an accessible, highly sustainable site for housing.
498. The appellant argues that the Council's own trajectory to 2027 should result in 41193 new homes but that is only 1193 over what is a minimum target figure and the loss of this site almost wipes out any leeway; the loss for whatever reason of just one more reasonably sized site and the projected figure for 2027 would be below the minimum target to be achieved.
499. The appellant states that there are other sites identified within the Stratford Masterplan Area but some of these are also Strategic sites in the Core Strategy already and delivery on many of them is not assured anyway as they do not have planning permission and nor are they the subject of any applications or discussions. The appellants argued that the Mansion House speech would lead to swathes of brownfield sites being released for housing across London but there was no evidence to back that up insofar as it related to Newham.
500. The appellants stated that the owners of site S11 immediately to the south were going to submit a scheme for 2500 - 3000 units as opposed to an employment led scheme which would easily make up for the loss here on S10. The Council had not been involved in any discussions about such a scheme but bearing in mind its admittance that employment land was not needed it was difficult to follow its stance that an application for housing on the site would be refused as the site was allocated for employment led development. However, no scheme for housing on this site has been submitted for consideration so far.

⁵¹⁵ Numbers in square brackets refer to other paragraphs in the report

501. Regarding other sites in general, the same thing could happen to any of them as the appellant is trying to achieve here – something other than housing. I agree that the Council in these circumstances cannot afford to lose strategic sites identified for housing (or mainly housing). That objection should carry substantial weight against the appellants' proposal in my view.
502. The appellant also argued that the Council's 'policy compliant scheme' it referred to was just a hypothetical exercise and a notional scheme assessed in viability terms put together to try to prove a point. Faced with an application and then an appeal proposing a different use on site identified as a strategic site towards the overall housing provision in the borough, the Council had little choice but to put forward evidence that developing the site as set out in the Core Strategy was viable.
503. The fact that the exercise showed that certain types of housing in the proposed mix for the site would have to be foregone on the current prices that needed to be used to check viability should not be used as a criticism of the Council. The Council explained that a reduced provision of affordable housing and family housing was acceptable where such a reduction would result in a viable development.

A.2 Employment opportunities [103-109, 243-246]

504. Policy S10 proposes a mixed use on the site (housing with some employment, a contribution to a new local centre and maybe some faith based use as part of that). The Council has accepted that there would be no B class uses and any scheme here would be likely to be just retail floor space rather than an employment use in the more true sense of the word. There is a surplus of B class floorspace in the borough and Mr Lee for the Council accepted that there would be no demand for B class use and if offered as such the space would almost certainly stay empty.
505. Mr Lee had assessed viability using a scheme of about 2850sqm of floorspace providing about 135 jobs but I agree with the appellants that with no vehicular access planned between West Ham Station (or to S11) and the site, and with the Council accepting a pedestrian link only, from the station, the planned floorspace would have no passing trade. It would also be at the end of a long cul de sac (from the Canning Road entrance to the appeal site) located up against the railway and would, therefore, be unlikely to come to fruition.

A.3 West Ham Local Centre [110-114, 247-252, 376-380]

506. The Council stated that the proposal would not contribute to the creation of a new local centre in the vicinity of West Ham Station (as per Policy S10) and the reason for refusal alleges that it would prevent the creation of such a centre. The appellants argued that the new local centre did not have to be on S10 at all and they were contributing to it with access provision.
507. The Council's witness accepted, as argued by the appellants, that the centre did not have to be on the S10 site; he said it could go just as well on S11 provided there were linkages. The site known as S11 (Parcel Force site) is actually much closer to the existing four shops on the south side of Memorial Avenue opposite the station entrance. The Council stated that there was no commitment to a local centre on S11 but accepted the appellants point that there is none on S10 either - the wording is the same for both sites. A link is provided (by safeguarding the land which the appellants have agreed to do for 15 years) between S10 and S11 on the appeal site and an improved link is provided to the station in accordance with what is set out in Policy S10.

A.4 Permeability [115-118, 253-257, 381-382]

508. The reason for refusal stated that the proposal would not provide for access to the Parcel Force site to the south (the other side of the railway) and would not deliver access improvements including a better link to West Ham Station. Pedestrian access from Canning Road to Crows Road and thence to the bridge over to West Ham Station is provided for in the layout and the s106 undertaking albeit that the land over which that access crosses will remain private rather than be adopted as public highway. Similarly vehicular access is provided from Canning Road via Crows Road and an underpass (under the railway) giving an alternative access to the Parcel Force site (S.11 – also due for redevelopment).
509. The Council stated that the link was an afterthought and not actively designed on to the scheme. It is a route with several changes of level and is unattractive, passing alongside the access road to the car park, coach parking and turning area. That part of the site to the east of the main building is open and landscaped and will always remain open. The owner like all owners can limit the time other parts of the site are open to anyone. It is not the most direct route to the sports area although one could go around the north side of the building alongside the river and also to the Parcel Force site that way (it can also be accessed around the east side of the mosque and alongside the road that provides its improved vehicular access).
510. It was not put into the design as it might have been as the Council did not until the first day of the inquiry inform the appellants that it agreed to open the Crows Road Bridge without which there was no real chance of a link from the site to West Ham Station. Whilst there may be some limitations on access through parts of the 'Public Realm' identified in the s106 undertaking, the scheme does achieve the two main objectives (links to West Ham Station and the parcel Force site) set out in the Core Strategy.

A.5 Convergence [119, 258-259]

511. The appellant argued that this was a non-point and should not have been raised. The Council's planning witness however, had set out the unchallenged evidence that Newham lags well behind other London boroughs in terms of some of the key socio economic indicators such as unemployment rates, low wages, poor life expectancy, poor education achievements and high numbers on benefits.
512. Core Strategy Policy S1 sets out that the overriding priority is to build communities that work and to ensure that growth contributes to achieving convergence. It goes on to state that the greatest opportunity for change will be in the area that includes the appeal site where new homes and new jobs will help achieve this. Development in accordance with Policy S10 would advance these convergence objectives more than the scheme proposed by the appellants; S10 proposes a mix of uses rather than just one use by providing homes, jobs and other functional local facilities such as would be found in a local centre.

A.6 Viability [120-129, 260-282, 383-386]

513. The witnesses from the two main parties were not far apart in terms of values having taken the same 2012 baseline values and Mr Lee for the Council had been more conservative and used a lower growth rate in values than the appellants had (8% as opposed to 15-20%). The Council's values were derived from a report it had commissioned from Strettons in January 2012.

514. The main difference and the reason for such a large deficit stemmed from the appellants including considerable infrastructure costs to provide a second vehicular access into the site from Manor Road which it was agreed was not needed with the improvements that would be made to the Abbey Lane junction with Canning Road.
515. The Council acknowledged that it put forward that the site was viable on the basis that no affordable housing would be included and the mix of commercial use so reduced that it would be offsite and only a retail use would be provided on S10 and that the local centre would not be on it (although it was never definite that it would be). Policy H2 in the Core Strategy allows for there being no affordable housing on sites if on site provision is inappropriate for various reasons, one of which is site conditions/site features and the contamination on this site would be a reason for arguing that this site would not be suitable for affordable housing.
516. Paragraph 173 of the NPPF makes it clear that careful attention needs to be paid to viability and that plans should be deliverable; sites should not be subject to such a scale of obligations and burdens that their ability to develop viably is threatened. Policy H2 allows the Council to permit some sites to be developed with no affordable housing on so long as the overall percentage is attained in the final total of new homes provided.
517. The site has not been marketed so all the figures and arguments put forward were hypothetical in any event and the Council included growth forecasting on the basis that the site is shown as being for development in the medium to later phase of the plan period and adopted a small growth rate of 3% in real terms (i.e. after allowing for costs and inflation).
518. In these circumstances I conclude that development of the site for a development generally conforming with what S10 proposes should be viable albeit that at the present time it would not support affordable housing and the employment opportunities would be reduced, possibly moving just off site.

A.7 Need [130-134, 283-306, 387-393]

519. Whilst arguably it not conventionally a central planning consideration except in particular circumstances, there was considerable debate about need at the inquiry and the figures changed in terms of projections to 2031. The appellant put current attendances at 2500 to 3000 on Thursdays and 700 on Fridays. The application when submitted in July 2012 anticipated future capacity on Thursdays at 9310 and Fridays at 5270 and the scheme was designed to accommodate that high number.
520. The supplementary environmental information submitted in March 2014 had reduced that number considerably and the maximum attendances now put were 4000 on Thursdays and 2000 on Fridays. An attendance of 9000 was only likely once or possibly twice a year if an Ijtama was held at the site. Those figures need to be considered along with the appellants witness' estimates based on normal population growth to 2031 which predicts 2800 on Thursdays and 1030 on Fridays (the former being no increase over the appellant's current Friday estimates of 2500 – 3000 and in fact a slight decrease).
521. Even if I took the higher March 2014 figures of 4000 and 2000, less than half the capacity proposed would be utilised and it could be even less. There is also no explanation put forward to justify the other facilities proposed as part of the complex. A dining hall for 2000 people at just under 4500 sq metres, and a library of just over 2000 sq metres with 100 reading spaces and a

visitors centre of 1000sq metres as well as capacity for six classes of schoolchildren within the gallery and also accommodation for visiting Imams.

522. The existing and projected attendees for regular prayer and meetings do not come anywhere close to establishing a need for what is proposed. The Ijtama held at the site in 2013 took place in a temporary structure and it was admitted that this way of accommodating that many people for just one or two occasions per year had worked at other locations and been successful; there is clearly room to do it on this site.
523. The appellants argued that they were a legitimate group and should be free to worship in the manner they deemed appropriate. Whilst acknowledging that argument it has to be balanced against the need to use the land for other purposes. In this case it is difficult to see any justification or need as opposed to simply a desire to build something this large on this site.

A.8 Continued use of the existing buildings [135, 307, 394]

524. If the outline application is approved the appellants wish to continue to be able to use the existing buildings until Phase 1 of the new development is completed and alternative buildings, therefore, become available for use on the site. This would enable the existing activities to continue without interruption. The main considerations in this instance relate to the health and safety of attendees whilst construction and associated work is taking place on site and also highway problems that might be caused in the locality during this period.
525. It was acknowledged that some conditions attached to the previous (2011) temporary permission had not been complied with, in particular the monitoring scheme for the air quality within the buildings had not been undertaken in the way it was supposed to have been and it was not known, therefore, whether the safety levels had been breached since that time. There had also not been a report to the Council on the physical integrity of the vapour membrane following a physical check every three months.
526. The appellants' witness (Andrews) accepted in cross examination that the appellants could not be relied upon to comply with the relevant conditions (regarding monitoring and safety reports) that were included in the draft list of conditions (similarly worded conditions had been imposed in 2011 and they had not been complied with). He did also state that the agreed conditions were worded this time around so that an independent suitably qualified organisation would carry out the survey and the Council could withhold its approval if it was not satisfied with the organisation that had carried out the measurements.
527. The main cause for concern is dust that would result from digging foundations, site clearance and general construction etc and the possibility that it could be contaminated. Precautions would have to be taken on any site to stop the spread of contaminated material if it was known to be there, including protection for those that are carrying out the construction.
528. Agreed condition six on the outline proposal requires a construction management scheme to be submitted, approved and implemented. It includes a requirement to show how the impacts of construction waste will be mitigated. In these circumstances there should be no harmful effect on users of the centre during the construction works.
529. The condition, and others that require further matters to be submitted for approval, are all proposed to be worded in a negative way so that the use will

have to cease if they are not complied with. In those circumstances I conclude that there should be no issues of safety for occupants and visitors due to the previous use of the site and the contamination that still exists in the ground. If agreed levels of contamination in the air are exceeded, the use has to cease.

530. The other main consideration regarding the continued use during construction work was parking off site. There are only 300 spaces available on site and the Thursday evening lectures ('Shab e Juma') sometimes attract greater numbers than can park there. There have been some problems with car parking so far as local people are concerned. Photographs were produced to show this, in particular cars parked on verges and blocking drives close to the site at one of the larger gatherings of worshippers that take place at the site and two of those who reside in the area came forward and made representations as witnesses giving evidence for NCL.
531. Conclusions about parking have been dealt with in considering the outline application and the only additional point to be considered in looking at the continued use during building operations is that the onsite parking would become unavailable during construction and so exacerbate the offsite parking situation on a Thursday evening.
532. The 300 parking spaces proposed are under the new building and would not be available until the completion of Phase 2 (Phase 1 being the library block, dining hall and accommodation block, which are on the site of the current car park area). Improvements are being made firstly, to pedestrian access to public transport links over the Crows Road bridge, secondly, the inclusion of a Travel Plan for those who wish to come to the new mosque and lastly, the effects that better traffic enforcement and/or restrictions can have.
533. The loss of onsite parking would be for approximately 33 months but that is a relatively short period for something that is normally only a problem on one evening during the week. The money for highway improvements which includes changes to bus stops outside West Ham Station will be paid on commencement of the development so things could be in place before the onsite parking is temporarily lost. I consider that whilst offsite parking could get worse during this construction period, it would not cause such a loss of amenity to those nearby that it could justify the Secretary of State not granting permission for the continuing use of the old buildings until the onsite car parking has been replaced.

Conclusion on A

534. There are some matters that clearly weigh against the appellants on this issue and others that are more neutral and some that carry weight in their favour. The loss of housing land when the requirement is likely to go up and there is only a small excess over the requirement must weigh very heavily against the appellants as must the fact that they cannot demonstrate a need for a development proposed on the basis of their use and forecasts for future use.
535. The proposal would do nothing to push forward the convergence aims of the Council that are set out in the Core Strategy. The proposal does nothing for the planned employment opportunities the site is supposed to provide but equally there would be few opportunities with the housing development either. Policy S10 does not say a local centre would be provided on site but I acknowledge that the proposal improves access to West Ham station from the northern access to the appeal site and the links between the two would enhance the local centre wherever it is located.

536. In conclusion I consider that substantial weight should be afforded to the objection to the development due to the loss of housing provision on what is a large important site in the Council's strategy to reach the 40,000 new homes by 2027; a figure that is likely to increase. The fact that I have found that there is no need demonstrated for a mosque of this size on this site and that the proposal does not further the Council's convergence aims adds further weight to the objection to develop this site for something other than what is planned in Policy S10. Whilst it is acknowledged that provision for better pedestrian movements through the site and to West Ham station would be provided and there would be less employment provision made than envisaged, this does not outweigh the matters that count against the development in considering this issue.

Issue B – impact on highway safety [137-161, 309-329, 395-409]

537. Differences on highways matters narrowed following the initial refusal of planning permission and the opening of the inquiry and there were some changes during the course of the inquiry. The Council accepts on advice from TfL that West Ham Station can deal with the expected demand and public transport capacity is not a problem.

538. The appellants have agreed to fund two sets of junction improvement works (Canning Road/Abbey Road junction and Manor Road/Crows Road junction) if Appeal A is successful and safety at the former is no longer an issue in that instance. The latter is to improve pedestrian and cyclist access to West Ham Station which would occur following the Council's agreement to open up the Crows Road bridge to pedestrians and cyclists so giving better access to the site for those who do not come by car.

539. The appellant considered that the only matter that remained of the Council's objection at the close of the inquiry was parking stress – the problems caused by parking in the surrounding area due to insufficient spaces on site. The Council's view was that that was an objection but there was also the likelihood and acceptability of the predicted modal split and the appropriate basis for assessing the traffic impact.

B.1 Congestion/pedestrian safety [141]

540. Whilst the reason for refusal referred to congestion the Council's witness confirmed that his real concern was safety at the Abbey Road/Canning Road junction due to inadequate sightlines and the highway improvements offered in the s106 undertaking overcame that objection. No other congestion or safety objections were raised.

B.2 Sustainability [142-158, 315-328, 395-409]

541. The parties agreed that the site had a PTAL rating of 6a which is just about as high as one can get (there are a few places with a rating of 6b) and means that the site is ideally located to be defined as sustainable development. The advice in paragraphs 34 and 35 of the NPPF is that developments generating significant levels of movement should be located where there is good access to sustainable modes of transport. The appeal site is ideal when looked at in that context.

B.3 Parking stress

542. The parties basically looked at this issue in different ways, the appellant working on the Thursday night attendance design case figure of about 4000 (actual average attendance figures were lower than that at about 2500 - 3000)

- and the Council looking at it on the basis that the new building would have a capacity of in excess of 9000 – almost treble the existing figures who attended on Thursday evenings. It was, in my view, appropriate to consider both situations on the basis that the building would reach its full capacity on occasions and the Council's witness in any event did also look at the 4000 attendance figure that the appellants' witness used.
543. Although the proposal is for a mosque with approximately 9000 prayer spaces it was agreed that the larger Thursday evening gatherings were far below this figure and 2500 – 3000 or a little over that was the normal attendance which included people coming and going at different times during the course of the evening. The appellants' own predictions for Thursday attendances by 2031 were only 2800 to 3000 with a possible peak at 3900.
544. Both the Council and the appellants had also independently undertaken surveys with different results about car occupancy of those attending and the percentage of those attending who arrived by car rather than public transport. They also arrived at different totals for the availability of on street parking in the surrounding area for those who were unable to park on site.
545. The appellants relied on a 2010 survey which showed 27% arriving by car although no details of the methodology were produced and the Council did a manual survey in 2014 showing 41.3% arriving in cars. Regarding available on street parking the Council arrived at a figure of 900 within a 10-15 minute walking distance and the appellants' witness accepted the survey as reliable even though the appellants' survey showed a far lower availability of 273 spaces. Whatever the modal split is and whatever the percentage arriving by car is, all parties agreed that it is the lack of alternative available parking within a reasonable walking distance that finally makes people stop coming by car and using public transport instead.
546. I consider that would be particularly true where the travel is in the evening and those travelling have a long journey home (it was stated that people came from all over the region – the south east – to the Thursday evening gatherings) when there is less public transport availability. I accept that the Council cannot extend existing CPZs without consultation although if people who live locally are upset that parking by those who do not live in the area is causing problems, the likelihood is that they would welcome some further restrictions. Restrictions can be to certain event nights and limiting availability on a Thursday evening as opposed to a blanket evening restriction would achieve the objective.
547. Whilst there was a big difference in the surveys regarding those who arrived by car it is difficult to pinpoint where the difference came from as the methodology was not there for both. I sat where the Council's surveyor sat (basically off to the side with his back against oncoming traffic) on a Thursday night and I agree with the appellants that despite his evidence, it was easy to miss people sitting in the back of vehicles, so many of which seem to have their rear windows blacked out. I also found plenty of parking space availability within a 10 – 15 minutes' walk. Even if the appellants' figure is correct at 27% arriving by car a reduction of 7% to get the figure down to 20% coming by car would not be an easy job if parking on nearby roads is available.
548. Objections were made concerning illegal parking and photographs showed the extent of some of it. These concerned the twice yearly (normally) Ijtama with people coming from the whole country but there would be special

arrangements for such a large event and special measures would be agreed to cover highway impact, marshalling and parking matters .

Conclusion on B

549. Objections relating to traffic safety and congestion were resolved by what is proposed in the s106 undertaking and conditions and the objection about the capacity of West Ham Station was withdrawn. Whether one takes the appellants' or the Council's figures regarding car occupancy and modal split, the likelihood of inducing people to travel by public transport to the site depends on the availability to park close by easily. That is something over which the Council has the most influence to exact some change.
550. Having said that the problem on a Thursday evening seems, on the evidence, not to be 'severe' using the relevant word in NPPF paragraph 31. The appellants try to encourage shared travel by car and insist on at least three people to a vehicle for those who park on site (and I saw some with less being turned away on the Thursday night I was watching) and these must be pre booked. The one or two Itjamas (national gatherings) would be subject to special measures through conditions attached to any planning permission granted. In these circumstances refusing permission on highway grounds is not justified.

Issue C – Impact of the previous use of the site – contamination [162-167, 330-337, 410-417]

C.1 Adequacy of remedial measures

551. All parties agree that the site is seriously contaminated and the contaminants if not properly managed pose a serious risk to human health. The Council accepted that the remediation of the appeal site for the purposes of the main development can be secured by way of conditions. The same was true in relation to groundwater contamination from pile driving and the construction works involved in the erection of the new building generally.
552. These are technical problems for which, it was agreed, there are solutions (they occur on building sites in numerous locations not just in the UK). The imposition of conditions requiring details to be submitted and approved before being implemented will ensure that the risk of contamination and danger to future users of the site is reduced as far as is technically possible. It would not be possible to guarantee that there would never be a problem at any time in the future.

C.2 Continued use during construction works/contamination levels

553. The Council's real concern was with the use of the site continuing during construction works on Phase 1. The matter of contamination levels was linked to that because the appellants had failed to comply with the conditions attached to the original temporary permission. Monitoring of the air had not occurred as it was supposed to have done and checks on the gas membrane had not taken place and reports made.
554. Although it was acknowledged that the alarm had never sounded, it was not really known what the levels of contamination were. The unauthorised building works that had taken place may have compromised the sealer cap that had been put in place and the Council argued that the appellants could not be relied upon to undertake the checks that were needed to ensure there was no risk to public safety; their witness had admitted this in cross examination.

555. The conditions proposed require that measurements are undertaken in accordance with an agreed plan for monitoring and this may be by a reputable company rather than the appellants themselves (indeed the appellants suggested that), particularly in view of the much larger building and increased numbers of visitors there would be on site. The Council's concerns on this issue are really an operational matter rather than a planning one associated with the use. One condition requires the submission of a construction management scheme for the development and how it will operate has to be approved and adhered to.
556. If there is work taking place on a contaminated site then very strict precautions are put in place to ensure that there is no health risk to anyone who lives or works on an adjoining site. In this instance one can view the existing buildings as a separate site from the actual site where construction is taking place and those same measures will be put in place to ensure there is no safety risk to users of the existing buildings – nor indeed to users of once work starts on what will be the immediately adjoining Phase 2.

Conclusion on C

557. Subject to the imposition of suitable conditions contamination should not be a problem either for the permanent development proposed or for the continued use of the existing buildings during construction of Phase 1. Further, it should not be a problem for the use of the Phase 1 buildings whilst Phase 2 is under construction.

Issue D – Impact on the character and appearance of the area [168-187, 338-350]

558. The parties agreed that this was an issue that would be judged by what I saw on site. The evidence put forward the views of the parties on the impact of the development on the surrounding area generally as well as on the Three Mills Conservation Area and nearby listed buildings.

D.1 Status to be given to the outline application

559. Whilst the application was in outline form, that submission included the layout so the locations and 'footprints' of the buildings were fixed and as a consequence, the location of the access and other roads on the site is fairly well defined. In addition, the application included what were defined as parameter plans and it was agreed that conditions on any permission granted should include one that approved only the plans submitted. These included all floor plans, sections and elevations and indeed, virtually all the plans that would have been submitted with an application for full planning permission. In these circumstances, the plans are sufficient to assess the impact of the development on the adjoining Conservation Area, the nearby statutory listed buildings and the area generally.

D.2 Effect on the adjoining Three Mills Conservation Area [342-349]

560. Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention is paid to the desirability of preserving or enhancing the character or appearance of Conservation Areas. The Framework has added to that defining such areas as heritage assets and does provide for the preservation of their setting. It also places great weight on the conservation of designated heritage assets. Furthermore, the policies in the Council's Core Strategy reflect the guidance and should, therefore, carry considerable importance and weight in the planning balance.

561. In the East Northamptonshire DC case referred to in paragraph 412 it was decided that where a listed building or its setting is affected by a proposed development the decision maker should not treat those effects as an ordinary material consideration to be weighed in the balance. Instead the decision maker *'should give "considerable importance and weight" to the desirability of preserving the setting of listed buildings when carrying out the balancing exercise.'* (per Sullivan L.J. para.29). Paragraph 132 of the Framework places great weight on the conservation of designated heritage assets. This results in decision makers having to apply that in considering the impact of a development on the significance of a designated heritage asset (in this case the Conservation Area).
562. The Conservation Area is fairly widespread and contains a large proportion of open space/undeveloped land which separates the two distinct character areas identified within it. On the western side is the Three Mills Island Character Area dominated by the former distillery complex (no3 Mills Studios), the House Mill and the Clock Mill with the creek passing underneath and the River Lea and Channelsea River to either side. North of this complex is a large recreational open space with views across to the pumping stations area and the appeal site in the distance.
563. The other character area is on the eastern side and centred round the Abbey Mills pumping stations which are bounded by the Prescott Channel and Channelsea River to the west and east and by Abbey road to the north. Most of this land is not open to the public although it occupies the north eastern half of the designated Conservation Area. It contains Station A which the Conservation Area Character Appraisal document describes as an exotic hybrid architectural style with elements drawn from Byzantine, Italian Gothic and Russian Orthodox schools.
564. There are other pumping stations and ancillary buildings within the complex (also like Station A they are Grade II listed) and there is also Station F which the appraisal describes as the only example of exceptional architecture from the twentieth century within the Conservation Area. Made of reflective aluminium and of futuristic design it is described elsewhere in the document as something that resembles a tin foil clad aircraft hangar and also that it has twin giant cylindrical flues which are particularly noteworthy. It is a very large building clearly seen from the recreational land to the north of the historic buildings on the western part of the Conservation Area as well as from other viewpoints around the Conservation Area and just outside it as I saw on my site visits.
565. The mosque would be located to the east side of the Channelsea River and also to the east of Channelsea House (the six storey building which also has its vehicular access on to Canning Road) at a slightly lower level than Channelsea House. On my site visits and from the photomontages produced I saw that there were viewpoints within the Conservation Area from where the new building would be visible although these were mainly distant views. Taking into account the relative positions of the proposed and existing buildings, the design of the various buildings and structures, the places from within the Conservation Area from which the proposed building would be seen and the fact that they are mainly long distance views, I do not consider that the development would have a harmful impact on the setting of the Conservation Area.
566. The proposed building is well designed and its size and to some extent its form, comes from its function (much as the 1990s pumping station building does). It has Islamic themes but as the appellant put forward, there is no

direct lifting of oriental motifs or details; it is a modern European structure and intended to be an outstanding and, admittedly prominent, piece of public architecture.

567. I consider that aim has generally been achieved and I do not agree with the Council or other objectors who argued that the views from within the Conservation Area would be detracted from by its presence and that the setting, character and appearance of the Conservation Area would not be preserved. They would be changed little by the erection of the proposed building. Whilst there are viewpoints from within the Conservation Area from which it would be seen, like the 1990s pumping station (that lies within the Conservation Area) it would be a major piece of architecture, interesting enough in its own right to stand on this site close to the Conservation Area.
568. It would not change the remoteness and detached quality that the Conservation Area has when walking around within it. From outside there are virtually no views of the Conservation Area and the proposed building within the same 'scene' other than very long distance views. Even walking along Greenway to the north there is no view into the site approaching from the west and travelling east until you have passed Station A and the two would not be in view together (the same is true when walking westward). As such I conclude that the setting of the Conservation Area would be preserved.

D.3 Effect on the nearby statutory listed buildings [342-349]

569. Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that the decision maker in considering whether to grant planning permission for any development which affects a listed building to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. As set out in paragraph 560 above considerable importance and weight should be given to that aim in coming to any planning decision.
570. As set out above the pumping station buildings in the adjoining Conservation Area and some ancillary buildings are all Grade II statutory listed buildings and to the west House Mill, Clock Mill and the offices opposite as well as the paved area extending west of House Mill are all statutory listed (with House Mill being Grade I). Outside the Conservation Area and to the south west of the main part of the appeal site is a group of seven Grade II listed gasholders. To the north the northern outfall sewer bridge over the Channelsea River that is part of Greenway and lies to the north west of the appeal site is also Grade II listed.
571. Looking at the whole area that is the setting for all these buildings, it is a completely mixed area containing the rivers, railway lines and Greenway breaking up the built form. There are large areas of industrial buildings both to the north west and to the south with a multitude of different sizes and designs and ages as some parts have been redeveloped. There is a small pocket of residential development off Abbey Lane and Bissom Road to the west of the pumping station and the main areas of residential development are to the east of the railway lines that form the eastern boundary of the appeal site.
572. The planned use of the site for housing would be more of a departure from the character of the development surrounding all these listed buildings than the proposal for a large single functional building (in this case a place of worship) or a group of fairly large buildings in a complex such as exists generally in the area. I consider that the setting of these listed buildings which are some distance (about 800 metres to the south west to the gasholders and about 700

metres to the west to the pumping station buildings) from where the mosque would be sited on the appeal site, and cannot generally be seen from the main part of appeal site where the buildings would be) or within the same street views will be preserved and the development will have no harmful effect on them.

Conclusion on D

573. The proposed development would be seen from several long distance viewpoints from within the Conservation Area. The gasholders can be seen from within the appeal site. From what I saw on site, however, the limited views that there are would not result in harm to any heritage asset or the area generally.

Appeal A - Overall conclusion

574. The parties agreed that contamination was not an issue subject to appropriate planning conditions being implemented and I do not consider there would be any harm to any heritage asset as a result of the proposed development. There would be some harm to the amenity of nearby residents due to cars parking off site and that is a problem that could get worse if attendees increased in future years. However the alternative of public transport is there and there is a finite limit to the available parking in the vicinity. Whilst it is a problem for some people it generally only occurs on one night of the week, is limited in its effect and by itself is not sufficient to withhold the granting of planning permission.

575. The objection to the loss of a strategic site for its planned purpose is in my view very strong and should be given substantial weight, particularly as there is no case made out for a development of this size on this site or in the locality generally. The appellants accepted that their development was not in accordance with the provisions in the development plan but there have not been material considerations put forward that outweigh those objections and would justify a recommendation of approval to this development.

576. The appellants relied on proving a need for the proposal but did not do so. They relied on showing that the development was not viable but whilst the Council could only show it to be viable by omitting all affordable housing and some of the employment generating uses, Policy H2 in the Core Strategy permitted them to do so. Finally they put forward that benefits from the development outweighed the harm.

577. There would be highway improvements, better pedestrian links, the redevelopment of fairly derelict site and the provision of a better place of worship for a large section of the community in the area plus the provision of some sports facilities, these do not outweigh the strong policy objections which I consider should prevail in this instance.

Appeal B – temporary permission for continued use of the existing buildings

[194-197, 360-365]

578. This proposal is for the continued use of the existing buildings and car park for two years if the outline proposal for the overall development is dismissed. If the outline permission is granted there is no need to deal with this appeal. The continuing use of these buildings was also part of the outline proposal/appeal and dealt with in paragraphs 524 to 533 above. I will, therefore, just consider below the situation if the appeal for outline permission (Appeal A) is dismissed.

579. The Council argued strongly that, if allowed, it would amount to a third temporary permission and that should not be granted for a development that is inconsistent with the development plan. Such a decision does not accord with Planning Practice Guidance (para: 014 Reference ID: 21a-014-20140306) which states that it will rarely be justifiable to grant a second temporary planning permission.
580. The Council's concerns (and those of the previous inspector) regarding highway safety at various junctions and also pedestrian safety in the area would be overcome by what is contained in the Unilateral Undertaking. Whilst those schemes would be appropriate if the outline permission is granted, I consider that although the situation needs to be improved it would be onerous to require those works if the appellants are only going to be allowed to remain on the site for up to two years.
581. A scheme for the overall development of the site was put forward but it is not (as I concluded on Appeal A) one where the proposal conforms with the development plan and in those circumstances it does not progress matters towards realising the aspirations for the site as set out in that plan. I can, therefore, understand the Council's view that a further temporary permission would be likely to further defer those aspirations, particularly as the appellants are the site owners.
582. I also acknowledge that the appellants have been on the site for a considerable time (having acquired it in 1996 with the first temporary permission being granted on a 2001 application) and now have a large, longstanding and regular congregation mainly based in the locality that visits the premises to worship and attend other meetings. The appellants' view that it would not be easy to find an alternative site in the area (with both sufficient parking and more importantly suitable building space for the needs of the numbers who attend to pray and attend meetings) was not really disputed.
583. In most circumstances it would not be appropriate to grant another temporary permission; instead it would be usual to extend the time for compliance on the enforcement notice for a longer than normal period. That at least results in a more certain conclusion to an unauthorised use as there is a finite date set beyond which the appellants' occupation of the site would be unlawful. If a temporary permission is granted then the Council is faced with issuing a further enforcement notice if the appellants remain on site after that temporary permission has expired.
584. In this instance it is also relevant to take into consideration that there are a number of conditions (that were agreed and which I consider should be in place if the use is to continue) proposed if a temporary permission is granted. They would give some control over how the use operates on site; that would not be the case if one simply extended the period for compliance with the enforcement notice for a long period.
585. The appellants need somewhere to continue the use and I consider it would be reasonable for them to be allowed a period of two years to find another site and complete all the necessary procedures that would enable them to lawfully operate at that other site. It would give them time to consider all the alternatives but at the same time allow them to continue their activities whilst that process is being undertaken in a controlled manner.
586. Subject to the conditions which have been considered in paragraphs 474 - 494, and are set out in Appendix 3B, I conclude that this appeal should be allowed if planning permission is not granted for the outline application.

Appeal C – the Section 174 (enforcement) appeal on grounds (f) and (g)

[198, 366-367]

587. This appeal only needs to be considered and determined if Appeals A and B are dismissed. If either of those appeals be allowed then this one does not need to be determined. The appellants stated that the appeal on ground (f) should be considered as withdrawn if the Notice requirements were varied as agreed and that the appeal on (g) would be successful in as much as the time for compliance would be extended to three months as agreed by the Council.

Ground (f)

588. The parties agreed during the course of the inquiry that it would not be appropriate to start excavating material on the site of the car park and disturbing the potentially hazardous material underneath. Remediation will be part of an overall plan when the site is eventually redeveloped whether that is via the proposal before this inquiry or some other one. It was agreed that the lesser step of simply ceasing the use as a car park was sufficient to remedy the breach in the interim. On the basis that this variation was confirmed, the appellants stated that they would withdraw the appeal on ground (f).

589. The evidence presented at the Inquiry (and agreed by the parties) was that what exactly had been undertaken to safeguard the site against the leakage of contaminants contained in the ground was, to a certain extent, a matter of conjecture. The installed alarms had never been activated due to a leak and it appeared that the layer of clay that had been put down was basically doing the job it was intended to do. In those circumstances I agree that it would be unwise to include requirements that could result in a leak of known hazardous materials/gases. Digging up the car park area could result in such an occurrence and ought to be avoided if possible.

Ground (g)

590. On ground (g) the Council agreed to extend the period for compliance to three months for the requirements rather than the one month set out in the Notice. The appellants were satisfied with this as an appropriate time in which to undertake that practical exercise. It would be reasonable taking into consideration that it is likely that estimates would be sought and a business contract would need to be entered into for the physical works necessary to clear the site. Three months would be a reasonable time in which to undertake that.

Appeal C – overall conclusions

591. Looking firstly at the Ground (f) appeal, the deletion of requirement 5.5 from the Notice and substituting instead simply that the use of the land marked as a car parking area ceases is sufficient and would not result in a possible hazardous situation arising. I consider that the Notice should be varied as agreed by the parties. There is also a grammatical mistake in paragraph 5.4 (the duplication of the word 'debris') that should be deleted.

592. Turning to the Ground (g) appeal, the appellants were content with the Council's agreement to extend the time for compliance with the requirements, as varied, from one month to three months. I consider that is a reasonable time to put a contract in place and carry out the necessary works of removal of what is on site. The recommendation on Appeal C reflects these conclusions.

FORMAL RECOMMENDATIONS

Appeal A – APP/G5750/A/13/2108313

593. I recommend that the appeal be dismissed. In the event that the Secretary of State disagrees, I set out at Appendix 3A to this report the conditions that I recommend are attached to a grant of planning permission.

Appeal B – APP/G5750/A/13/2206531

594. I recommend that the appeal be allowed and planning permission be granted subject to the conditions set out in Appendix 3B to this report.

Appeal C - APP/G5750/C/13/2203432

595. I recommend that the Enforcement notice be varied as follows:

- (a) Delete the word 'debris' after the word 'resulting' in the first line of paragraph 5.4 and
- (b) Delete paragraph 5.5 and substitute therefor 'Cease the use of the areas coloured light blue and labelled 'car park' as shown outlined on the attached plan (Map 2) for the parking of vehicles.'
- (c) In the Time for Compliance at the end of paragraph 5 delete the words 'one calendar month' and substitute therefor 'three calendar months.'

Subject to these variations I recommend that the appeal be dismissed and the Enforcement Notice be upheld. If either Appeal A or Appeal B (or both) is allowed and planning permission(s) granted, and the Secretary of State also determines Appeal C (and upholds the Notice), then the provisions of Section 180 of the 1990 Act will override the requirements of the Notice in so far as it is inconsistent with either or both planning permissions which shall be taken to have been granted subsequently.

D E Morden

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY

Mr Douglas Edwards	Queen Counsel, instructed by Helen Edwards, Director of Legal & Governance, Newham LBC
Mr Jack Connah	Counsel
He called Mr N Deely	Director, Metwork
Mr P Crowcroft	Partner, ERM
Mr M Woodburn	Principal Transport Planner, Newham LBC
Mr A Lee	Senior Director, BNP Paribas Real Estate
Mr S Sahadevan BA(Hons) DipUrb MRTPI Mr M Abkari	Principal Planner, Major Applications, Newham LBC Traffic Counter & Surveyor, Quality Traffic Surveys

FOR THE APPELLANT

Mr Christopher Boyle	Queens Counsel instructed by Deen and Co, Solicitors
He called Mr R Owers MA (Hons) DipArch RIBA Mr P Stewart MA(Cantab)DipArch RIBA Dr J Sennett BSc PhD Mr G Bellamy BSc CEng MICE Mr T Andrews BSc Mr J Stephenson FRICS MCIARB Mr P Weatherhead BA MRTPI FRICS	Principal Director, NRAP Architects Independent expert adviser on architecture and planning matters Senior Consultant, Ecorys UK Partner, Bellamy Roberts Principal Sustainability Consultant, Hilson Moran Partnership Ltd Senior Director, Grant Mills Wood Principal, Peter Weatherhead Planning

FOR NEWHAM CONCERN LIMITED

Mr John Pugh-Smith Counsel instructed by Will Kauffman, Howard Sharpe
& Partners

He called	
Mr K Fitzgerald	Local resident
Dr J Taylor	Chief Executive, Lapido Media, The Centre for
BA(Hons) NCTJ Cert PhD	Religious Literacy in World Affairs
Mr Orr BA(Hons)	Partner, CSJ Planning Consultants Ltd
BTP DipUrb MRTPI	
Mr M Fellows	Independent planning consultant
BA(Hons) DipTP MRTPI	
Mrs J Harris	Local resident

FOR NEWHAM PEOPLES ALLIANCE

Mr M Umair	Also acting Counsel
Mr S Ahmad	Also acting Counsel
Mr B North	Operations Director, Carpenters and Docklands Centre
Mr B Hassan LLB	Local resident

INTERESTED PERSONS

Mr T Brown	Local resident
Mr Mubeen	Trustee of the Gardens of Muslim Cemetery Trust

DOCUMENTS PLANS AND PHOTOGRAPHS ARE SET OUT IN APPENDIX 1

Appendix 1 – List of Documents, Plans and Photographs

CORE DOCUMENTS

A: MASTERPLAN DOCS

- A1 - Appellant Planning Statement - July 2012.pdf
- A2 - Final Application Form 120712.pdf
- A3 - Final BREEAM Pre-Assessment Report April 2012.pdf
- A4 - Final CIL Form July 2012.pdf
- A5 - Final Cover Letter 120712.pdf
- A6 - Final Draft s106 Heads of Terms July 2012.pdf
- A7 - Final Draft Strategic Level Travel Plan Ref 1.0 July 2012.pdf
- A8 - Final Energy Strategy May 2012.pdf
- A9 - Final Needs Assessment April 2012.pdf
- A10 - Final Operational Statement July 2012.pdf
- A11 - Final Planning Statement July 2012.pdf
- A12 - Final Supplemental Viability Study May 2012.pdf
- A13 - Final Sustainability Statement May 2012.pdf
- A14 - Final Viability Study November 2011.pdf
- A15 - Final Waste Strategy Rev 2.0 4 July 2012.pdf
- A16 - Final Statement of Community Involvement.pdf
- A17 - Final Design Code & Parameter Plans for Outline Planning.pdf
- A18 - Final Design and Access Statement July 2012.pdf
- A19 - Final Outline Landscape Planning Report July 2012.pdf

B: MASTERPLAN DRAWINGS

- B1 - 1272.001 Rev B Masterplan.pdf
- B2 - 1272.002 Rev B Open Space Designations.pdf
- B3 - 1272.004 Rev A Habitat Plan.pdf
- B4 - 1272.005 Rev B Hard & Soft Strategy.pdf
- B5 - 1272.006 MUGA Parameter Plan.pdf
- B6 - 2478_D001 Existing Plan.pdf
- B7 - 2478_D003 Location Plan.pdf
- B8 - 2478_D004 Site Plan.pdf
- B9 - 2478_D005 Block Plan.pdf
- B10 - 2478_D006 Masterplan Uses Drawing.pdf
- B11 - 2478_D007 Masterplan Building Heights.pdf
- B12 - 2478_D008 Masterplan Access and Linkages.pdf
- B13 - 2478_D100 Level 0 Lower Ground Floor.pdf
- B14 - 2478_D220 Context Sections.pdf
- B15 - 2478-D002 Existing Buildings 7, 8, 9, 10 and 11 Plans and E.pdf
- B16 - 2478-D101 Level 1 Upper Ground Floor.pdf
- B17 - 2478-D102 Level 2 Foyer Mezzanine.pdf
- B18 - 2478-D103 Level 3 Men's Gallery.pdf
- B19 - 2478-D104 Level 4 2nd Floor of Library and Accommodation.pdf
- B20 - 2478-D105 Level 5 Women's Gallery.pdf
- B21 - 2478-D106 Level 6 Imam's Apartments.pdf
- B22 - 2478-D107 Roof Plan.pdf
- B23 - 2478-D200 Long Section looking North East.pdf
- B24 - 2478-D201 Long Section looking South West.pdf
- B25 - 2478-D202 Cross Section looking South East.pdf
- B26 - 2478-D203 Cross Section through Porch.pdf
- B27 - 2478-D204 Section along Riverside.pdf
- B28 - 2478-D210 Site Cross Section looking South East.pdf
- B29 - 2478-D211 Long Site Section looking North East.pdf
- B30 - 2478-D300 South West Elevation.pdf
- B31 - 2478-D301 North East Elevation.pdf
- B32 - 2478-D302 South East Elevation.pdf
- B33 - 2478-D601 Sports Pavilion Ground Floor Plan.pdf
- B34 - 2478-D602 Sports Pavilion Elevations and Sections.pdf
- B35 - 2478-D603 Sports Pavilion Roof Plan.pdf
- B36 - 2478-D700 View South West across Riverine Square.pdf
- B37 - 2478-D701 View South through Gatehouse.pdf

- B38 - 2478-D702 View South across Riverside Terrace.pdf
- B39 - 2478-D703 View North East across Riverside Terrace.pdf
- B40 - 2478-D704 View North across Riverside Terrace.pdf
- B41 - 2478-D705 View North across Riverine Gardens.pdf
- B42 - 2478-D706 Isometric Cutaway.pdf
- B43 - 2478-P009 Site Location Plan.pdf
- B44 - 5061_04A Existing Building 1 Elevations.pdf
- B45 - 5061_05B Existing Building 1 Ground Floor Plan.pdf
- B46 - 5061_06B Existing Building 1 First Floor Plan.pdf
- B47 - 5061_08A Existing Buildings 2 and 3 Plans and Elevations.pdf
- B48 - 5061_09A Existing Buildings 4, 5 and 6 Plans and Elevations.pdf
- B51 - A3 Copy of Masterplan Plans

C: ENVIRONMENTAL IMPACT ASSESSMENT

- C1 - Vol.I - Non Technical Summary.pdf
- C2 - Chapter A - Introduction.pdf
- C3 - Chapter B - Proposed Development.pdf
- C4 - Chapter C - Consideration of Alternatives.pdf
- C5 - Chapter D - Methodology.pdf
- C6 - Chapter E - Air Quality.pdf
- C7 - Chapter F - Noise & Vibration.pdf
- C8 - Chapter G - Water Resources.pdf
- C9 - Chapter H - Ground Conditions.pdf
- C10 - Chapter I - Socio-economics.pdf
- C11 - Chapter J - Townscape Vis Impact Asmt.pdf
- C12 - Chapter K - Ecology.pdf
- C13 - Chapter L - Archaeology and Cultural Heritage.pdf
- C14 - Chapter M - Transport.pdf
- C15 - Chapter N - Cumulative Effects.pdf
- C16 - Appendix A1 - Site Plan.pdf
- C17 - Appendix B1 - Parameter Plans.pdf
- C18 - Appendix B2.pdf
- C19 - Appendix B3 - UXO Desk Study.pdf
- C20 - Appendix E1 - Correspondence.pdf
- C21 - Appendix F1 - Noise Survey Results.pdf
- C22 - Appendix F2 - Construction Noise Calculations.pdf
- C23 - Appendix G1 - Flood Risk Assessment.pdf
- C24 - Appendix H1 - Ground Cond Assessment.pdf
- C25 - Appendix J1 - Photomontage Views.pdf
- C26 - Appendix K1 - Phase 1 Habitat Survey.pdf
- C27 - Appendix K2 - Phase 1 Habitat Map.pdf
- C28 - Appendix K3 - Invasive Weed Survey.pdf
- C29 - Appendix K4 - Reptile Survey.pdf
- C30 - Appendix K5 - Invertebrate Survey.pdf
- C31 - Appendix K6 - Breeding Bird Survey.pdf
- C32 - Appendix K7 - Non-Statutorily Protected Sites.pdf
- C33 - Appendix K8 - Protected and Notable Species Record.pdf
- C34 - Appendix K9 - Consultation Response.pdf
- C35 - Appendix L1 - Heritage Assessment.pdf
- C36 - Appendix M1 - Transport Assessment 2.pdf

D: QUESTIONNAIRE - POLICY

- D1 - National Planning Policy Framework
- D2 - London Plan Policy - Extracts (SEE SHEET 2 FOR INDEX)
- D3 - Newham Core Strategy Extracts (SEE SHEET 2 FOR INDEX)
- D4 - London Plan Examination in Public - List of Participants
- D5 - Olympic Legacy Supplementary Planning Guidance
- D6 - LP SPG - Planning for Equality and Diversity in London
- D7 - London Plan SPG Housing
- D9 - Homes for London - The London Housing Strategy
- D8 - Draft Further Alternations to the London Plan

E: LINKED APPEAL FORMS + GROUNDS

- E1 - Planning Appeal Form.pdf
- E2 - Enforcement Appeal Form.pdf
- E3 - Variation Appeal Form.pdf
- E4 - Grounds S.78.pdf
- E5 - Grounds S.174.pdf
- E6 - Ground (a) Refused.pdf
- E7 - Regulation 22 Letter.pdf
- E8 - LPA Questionnaires Cover Letter.pdf

F: LINKED APPEAL QUESTIONNAIRE DOCUMENTS

- F1 - LPA Cover Letter 22.11.2013.pdf
- F2 - S.78 Questionnaire.pdf
- F3 - S.174 Questionnaire.pdf
- F4 - Non Determination Questionnaire (S.78).pdf
- F5 - App.1 - Enforcement Notice - Abbey Mills.pdf
- F6 - App.2 - Appeal Decision 23.05.2011.pdf
- F7 - App.3a - Site Notice - Application for Planning Permission 28.09.2013.pdf
- F8 - App.3b - Site Notice - Departure from Development Plan 28.09.2013.pdf
- F9 - App.3c - Site Notice - Affecting Setting Listed Building 28.09.2013.pdf
- F10 - App.3d -Site Notice - Application Accom Enviro Statement.pdf
- F11 - App.4 - Map of Site Notice Locations - Abbey Mills.pdf
- F12 - App.5 - Copy of Press Advert - 26.09.2012.pdf
- F13 - App.6 - Copy of List of Buildings.pdf
- F14 - App.7 - English Heritage Response.pdf
- F15 - App.8a - GLA Notification Letter - Abbey Mills.pdf
- F16 - App.8b - GLA Response to Notification.pdf
- F17 - App.9 - GLA Stage 1.pdf
- F18 - App.10 - GLA Stage 2.pdf
- F19 - App.11 - Canal and River Trust Response 08.11.2012.pdf
- F20 - App.12 - Lee Valley Regional Park Authority - Consultation Response 02.11.2012.pdf
- F21 - App.13 - London Fire Brigade - Consultation Response.pdf
- F22 - App.14 - London Legacy Development Corporation - Consultation Response.pdf
- F23 - App.15 - Natural England - Consultation Response.pdf
- F24 - App.16 - Consultation Response - Transport for London.pdf
- F25 - App.17a - National Grid Consultation Response.pdf
- F26 - App.17b - National Grid Consultation Response.pdf
- F27 - App.17c - National Grid Consultation Response Map.pdf
- F28 - App.17d - National Grid Consultation Response.pdf
- F29 - App.18 - Health and Safety Executive - Consultation Response.pdf
- F30 - App.19 - Environment Agency Consultation Response.pdf
- F31 - App.20 - CrossRail - Consultation Response.pdf
- F32 - App.21 - Thames Water - Consultation Response.pdf
- F33 - App.22 - Committee Report (Strettons Viability Assessment Removed).pdf
- F34 - App.23 - Abbey Mills Committee Update.pdf
- F35 - App.24 - Committee Minutes - SDC - 5th December, 2013.pdf
- F36 - App.25 - Decision Notice.pdf
- F37 - App.26 - Sample Linked Consultation Letter.pdf
- F38 - Enforcement Report.pdf
- F39 - List of Policies.pdf

G: 2011 ENFORCEMENT INQUIRY – APPELLANT'S DOCUMENTS

- G1 - Landscape & Visual Matters POE (Appellant).pdf
- G2 - Annex 1 to Landscape Proof - Illustrative Material.pdf
- G3 - Summary of Landscape & Visual Matters POE.pdf
- G4 - Robert Mawson POE (Accessibility Issues).PDF
- G5 - Appendices for Robert Mawson Proof.PDF
- G6 - Karen Jones POE (Appellant).pdf
- G7 - Appendices to Karen Jones Proof.pdf
- G8 - Transport & Traffic POE (Appellant).pdf
- G9 - Transport & Traffic Appendices (Appellant).pdf

G10 - Solad Sakandar Mohammed POE (Appellant).pdf
G11 - Topographical Survey (14590_OGL - Rev.1).pdf
G12 - Ecology Report (101201_9534 - Issue 1.0).pdf
G13 - Contamination Assessment (Appellant).pdf
G14 - EA Statement - Enf Appeal.pdf

H: ADDITIONAL INQUIRY DOCUMENTS

H1 - Appellant Reg 22 Submission 18.03.2014 - Environmental Statement Vol 1 - NTS (March 2014)
H2 - Appellant Reg 22 Submission 18.03.2014 Chapter E Addendum (Air Quality)
H3 - Appellant Reg 22 Submission 18.03.2014 Chapter F Addendum (Noise & Vibration) v 0.1
H4 - Appellant Reg 22 Submission 18.03.2014 Chapter H Addendum (Ground Conditions)
H5 - Appellant Reg 22 Submission 18.03.2014 Chapter L Addendum (Archaeology Cultural Heritage)
H6 - Appellant Reg 22 Submission 18.03.2014 Chapter M Addendum (Transport)
H7 - Appellant Monitoring Data Submission Cover E-mail 25.04.2014
H8 - Appellant Monitoring Data Submission 25.04.2014 Riverine Centre - Gas Membrane Inspection
H9 - Appellant Monitoring Data Submission 25.04.2014 Riverine Centre - Air Quality Monitoring
H10 - Council Submission EIP Evidence 03.03.2014 Cover E-mail
H11 - Council Submission EIP Evidence 03.03.2014 - EIP1 Statement CGMS_Trustees
H12 - Council Submission EIP Evidence 03.03.2014 EIP 2 - Trust Submission - Core Strategy Policy
H13 - Council Submission EIP Evidence 03.03.2014A -EIP 3 - Council Evidence EIP - Matter 2
H14 - Council Submission EIP Evidence 03.03.2014 - EIP - Matter 2 Appendix 1
H15 - Council Submission EIP Evidence 03.03.2014 EIP 5 - Inspector's Report Final
H16 - LPA Rule 6 Statement
H17 - LPA Rule 6 - Appendix 1
H18 - LPA Rule 6 - Appendix 2
H19 - LPA Rule 6 - Appendix 3
H20 - Appellant Statement of Case
H21 - Newham Concern Statement of Case
H22 - Newham People's Alliance - Statement of Case
H23 - Inspector's PIM Meeting Notes
H24 - Strettons Report - LPA Submission - Post Questionnaire Deadline
H25 - 28.03.2014 Environment Agency Statement
H26 - Character Appraisal and Management Proposals
H27 - Extract from Newham Core Strategy
H28 - Listed Building Descriptions
H29 - LBN Opening Statement
H30 - Newham Concern Opening Statement
H31 - Appellant Opening Statement
H32 - Newham Peoples Alliance Opening Statement
H33 - Newham Core Strategy
H34 - Extracts from The London Plan
H35 - Proof of Mr Terry Brown
H36 - Draft Unilateral Undertaking Pursuant to Section 106
H37 - Draft planning conditions – outline 16 June 2014
H38 - Draft planning conditions – temporary 17 June 2014
H39 - Chancellor's Mansion House speech and associated documents
H40 - Revised conditions - outline
H41 - Revised conditions – temporary
H42 - Enforcement Notice – suggested corrections and variations
H43 - Draft conditions – outline, 2nd revision
H44 - Draft conditions – temporary 2nd revision
H45 - Statutory declaration of Mr B Moore
H46 - Court of Appeal judgement on the injunction re use of appeal site
H47 - NPA document enlarging on info given in para 13 of opening statement
H48 - NPA closing submissions
H49 - NCL closing submissions

H50 - LBN closing submissions
H51 - Judgement handed in by LBN
H52 - Judgement handed in by LBN
H53 - Glossary of acronyms used in evidence of the parties
H54 - Appellants' closing submissions
H55 - Final s106 obligation
H56 - Inspector's list of issues/considerations
H57 - Written representations

LOCAL PLANNING AUTHORITY DOCUMENTS

CROWCROFT - CONTAMINATION

LBN AA - Phillip Crowcroft Proof of Evidence
LBN AB - Phillip Crowcroft Summary Proof of Evidence
LBN 1.1 - Model Procedures (EA + Defra).pdf
LBN 1.2 - Aspinwall & Company report of 1990 Volumes 1.pdf
LBN 1.2A - Phil Crowcroft CV.pdf
LBN 1.3 - Aspinwall & Company report of 1990 Volumes 2.pdf
LBN 1.4 - Waterman Risk Management Strategy.pdf
LBN 1.5 - Aspinwall & Company Report of May 1992, Volume 3.pdf
LBN 1.6 - Aspinwall Groundwater Management Plan.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells A.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells B.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells C.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells D.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells E.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells F.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells G.pdf
LBN 1.7 - Hilson Moran - 8 Drawings Archives of Maunsells H.pdf
LBN 1.8 - letter from Newham to Barton Willmore Planning Partnership (BWPP).pdf
LBN 1.9 - Newham letter to London Theatrical Facilities Ltd of 211094.pdf
LBN 1.10 - Outline Description of Proposed Works.pdf
LBN 1.11 - Air Quality Monitoring + Gas Membrane Inspection Spec 14.06.2011 (Hilson Moran).pdf
LBN 1.12 - Condition 6 Air Quality Monitoring Report 27 April 2012 Rev 00 GLINT.pdf
LBN 1.12A - Riverine Centre Condition 6 Air Quality Monitoring Report 26 July 2012 Rev 00.pdf
LBN 1.12B - Riverine Centre Condition 6 Air Quality Monitoring Report 27 April 2012 Rev 00.pdf
LBN 1.12C - Riverine Centre Condition 6 Air Quality Monitoring Report 30 Oct 2012 Rev 00.pdf
LBN 1.13 - LTGDC Decision Notice 16 09 2011.pdf
LBN 1.14 - UK Environment Agency produced a toxicological review of contaminants in soil.pdf
LBN 1.15 - International Program on Chemical Safety - Extract.pdf
LBN 1.16 - USEPA Inhalation RfC Assessment 1995 Extract.pdf
LBN 1.17 - Dutch National Institute for Public Health and the Environment Report.pdf
LBN 1.18 - Baars et al. Re-evaluation of Human Toxicology Report.pdf
LBN 1.19 - WHO Air Quality Extract.pdf
LBN 1.20 - Figure 1 Site Layout.pdf
LBN 1.21 - Figure 2 Mosque Development A01.pdf
LBN 1.23 - Figure A Before and After Construction Conditions of Cap around Mosque

LEE - VIABILITY

LBN BA - Anthony Lee Proof of Evidence
LBN BA - Anthony Lee Summary Proof of Evidence
Appendix LBN 2.1 BCIS tender price index.pdf
Appendix LBN 2.10 800 unit-10% three bed-20% affordable-with growth.pdf
Appendix LBN 2.11 1,000 unit-10% three bed-20% affordable-with growth.pdf
Appendix LBN 2.2 800 units-30% three bed-0% Affordable.pdf
Appendix LBN 2.3 800 units-20% three bed-10% Affordable.pdf

Appendix LBN 2.4 800 units-30% three bed-20% Affordable.pdf
Appendix LBN 2.5 800 units-10% three bed-30% Affordable.pdf
Appendix LBN 2.6 1,000 units -10% three bed-20% Affordable.pdf
Appendix LBN 2.7 800 unit-30% three bed-0% Affordable-with growth.pdf
Appendix LBN 2.8 800 units-20% three bed-10% affordable-with growth.pdf
Appendix LBN 2.9 800 unit-30% three bed-20% affordable housing-with growth.pdf
Appendix LBN 2.12 - NPPG Viability
Appendix LBN 2.13 - App 1 Draft analysis of Agreement and Differences Between Appraisals
Appendix LBN 2.14 - House Price Index Sensitivity Tables
Appendix LBN 2.15 - House Price and build cost Inflation since 1995

DEELY - DESIGN

LBN CA - Neil Deely Proof of Evidence
LBN CB - Neil Deely Summary Proof of Evidence
LBN 3.1 - Pinch Point Plan
LBN 3.2 - Map of Olympic Park <http://queenelizabetholympicpark.co.uk/the-park/plan-your-visit/park-map>
LBN 3.3 - Legibility Plan
LBN 3.4 - Comparative footprints and verified view plan

WOODBURN - TRANSPORT

LBN DA - Murray Woodburn Proof of Evidence
LBN DA - Murray Woodburn Summary Proof of Evidence
Appendix LBN 4.1 - Service 276 Timetable.pdf
Appendix LBN 4.2 - TD42-95 Geometric Design of Major - Minor Priority Junctions.pdf
Appendix LBN 4.3 - Manual for Streets.pdf
Appendix LBN 4.4 - Abbey Road-Canning Road Junction Geometry.pdf
Appendix LBN 4.5 - Crows Road 14(1) Temporary Closure Order 2014.pdf
Appendix LBN 4.6 - Crows Road 14(2) Road Closure Notice 2014.pdf
Appendix LBN 4.7 - Greenway - Route and Points of Access.docx
Appendix LBN 4.8 - Crime statistics for Greenway-Abbey Rd area.docx
Appendix LBN 4.9 - Birmingham Central Mosque Visitor Information.xps
Appendix LBN 4.10 - Meteorological Office Weather Data - June 2010.xps
Appendix LBN 4.11 - Heathrow Weather Data - June 2010.xps
Appendix LBN 4.12 - Thursday Vehicle+Occupancy+Pedestrian Survey.pdf
Appendix LBN 4.13 - Thursday Parking Survey.pdf
Appendix LBN 4.14 - Friday Vehicle+Occupancy+Pedestrian Survey.pdf
Appendix LBN 4.15 - Friday Parking Surveys.pdf
Appendix LBN 4.16 - Have Faith in Travel Planning.pdf
Appendix LBN 4.17 - Area within 10 minute walk of the site.docx
Appendix LBN 4.18 - Permit area SSW.PDF
Appendix LBN 4.19 - Permit area SSE.PDF
Appendix LBN 4.20 - Permit area W.PDF
Appendix LBN 4.21 - Traffic Survey Abbey Road -Canning Road Thur 01 May 2014.xls
Appendix LBN 4.22 - PICADY Thursday Results with Drop-Off Included.docx
Appendix LBN 4.23 - Pedestrian Comfort Level Guidance.pdf
Appendix LBN 4.24 - Abbey Rd-Canning Rd Crash 5 yrs data to Nov 2013 PLOT.pdf
Appendix LBN 4.25 - Abbey Rd-Canning Rd Crash 5 yrs data to Nov 2013 REPORT.pdf
Appendix LBN 4.26 - British Parking Association Car Park Guidance.pdf
Appendix LBN 4.27 - Photographs Showing Current Adverse Parking Impacts.docx
Appendix LBN 4.28 - Abbey Road Proposed Junction Plan
Appendix LBN 4.30 - Statutory Declaration of Mr Malik Abkari
Appendix LBN 4.31 - Crow Road Improvements Plan
Appendix LBN 4.32 - Supplementary Proof of Murray Woodburn

SAHADEVAN - PLANNING

LBN EA - Sunil Sahadevan Proof
LBN EB - Sunil Sahadevan Summary Proof
LBN EC - Sunil Sahadevan Supplementary Proof
LBN 5.1 - Meeting Minutes 01.1997.pdf
LBN 5.2 - UDP 2001 Extract - MOZ24.pdf
LBN 5.3 - Extract - 99.1014 - Master Plan Proposal.pdf

LBN 5.4 - Trust Planning Statement - Extract 1959.pdf
LBN 5.5 - Decision Notices 991016 + 991017.pdf
LBN 5.6 - Letter to Trust from LPA 2000.pdf
LBN 5.7 - Historic Chronology of Events.pdf
LBN 5.8 - Letter to LPA A. Salt 02.05.2000.pdf
LBN 5.9 - 01-0034 Application Form.pdf
LBN 5.10 - Plan of Temporary Structure - 01-0034.pdf
LBN 5.11 - Decision Notice 01-0034.pdf
LBN 5.12 - Letter to Trust from LPA 05.2001.pdf
LBN 5.13 - Map of Extensions 2001.pdf
LBN 5.14 - Map of Toilet Block 2001.pdf
LBN 5.15 - E-mail from Trust - Application Lodged 2001.pdf
LBN 5.16 - Meeting Minutes 15.06.2001.pdf
LBN 5.17 - Map Kitchen Extension 2001.pdf
LBN 5.18 - Site Visit Images 2001.pdf
LBN 5.19 - Signed S106 -2001.pdf
LBN 5.20 - MOA 2001.pdf
LBN 5.21 - Meeting Minutes 05.11.2001.pdf
LBN 5.22 - Meeting Minutes - Various Dates.pdf
LBN 5.23 - Meeting Minutes 28.02.2002.pdf
LBN 5.24 - Site Images - Unauthorised extension.pdf
LBN 5.26 - Committee Report 2002.pdf
LBN 5.27 - Site Images Car Park.pdf
LBN 5.28 - Map of Car Park (Hardstanding 2001).pdf
LBN 5.29 - ENs 2003.pdf
LBN 5.30 - Committee Report 031982 and 030135.pdf
LBN 5.31 - PINS Appeal decision 2003.pdf
LBN 5.32 - Meeting Minutes 08.11.2002.pdf
LBN 5.33 - Letter to Trust From LPA SS 20.12.2002.pdf
LBN 5.34 - Invalid Letter to Trust 21.11.2003.pdf
LBN 5.35 - Meeting Minutes 20.02.2003.pdf
LBN 5.36 - Decision Notices 03-0135 + 03-1982.pdf
LBN 5.37 - Committee Minutes.pdf
LBN 5.38 - Meeting Minutes 04.06.2003.pdf
LBN 5.39 - Meeting Minutes 12.12.2006.pdf
LBN 5.40 - Mosque Electronic Leaf.pdf
LBN 5.41 - E-mail M. Tear Site Visit.pdf
LBN 5.42 - Meeting Minutes 14.03.2008 GVA.pdf
LBN 5.43 - Enforcement Notice 18.02.2010.pdf
LBN 5.44 - Signed Project Planning Agreement - 13 04 2011.pdf
LBN 5.45 - UU (unsigned version).pdf
LBN 5.46 - REMA October, 2013.pdf
LBN 5.47 - LLDC Planning Administrative Boundary.pdf
LBN 5.48 - Maps of Arc of Opportunity - Newham CS Extract.pdf
LBN 5.49 - Newham Ward Boundary Map.pdf
LBN 5.51 - Core Strategy Appendix 1.pdf
LBN 5.52 - CS Conformity with Draft NPPF.pdf
LBN 5.53 - Sugar House Lane - Committee Report LTGDC.pdf
LBN 5.54 - Sugarhouse Lane Committee Report LBN.pdf
LBN 5.55 - MW - Note on Policy Changes.pdf
LBN 5.56 - E-mail from Thames water to LPA 23.04.2014.pdf
LBN 5.57 - Policy Flexibility - Family Units + Affordable Housing.pdf
LBN 5.58 - Trust Closing - Harris QC 2011 EN Inquiry.pdf
LBN 5.59 - Newham Regeneration.pdf
LBN 5.60 - Letter to C Lacey from LTR 17 04 14.pdf
LBN 5.61 - List of D1 Consents.pdf
LBN 5.62 - List of other large venues.pdf
LBN 5.63 - Witness Statement - Patel.pdf
LBN 5.64 - Note and Erratum of Sahil Sahadevan - Further Notes on Housing Delivery Targets
LBN 5.65 - Note in response to NPA Opening Statement
LBN 5.66 - Notes on HSE blast zones and plans/guidance from HSE

APPELLANTS' DOCUMENTS

ARCHITECTURE - OWERS

- Apt 1.1A - R Owers Proof of Evidence
- Apt 1.1B1 to 1.16 - Appendices to R Owers Proof of Evidence
- Apt 1.1B7 to 1.1B8 - Appendices (Drawings) to R Owers Proof of Evidence
- Apt 1.1.B9 - Comparative building footprints plan
- Apt 1.1 B10 - Diagram of Public Realm Provision
- Apt 1.1 B11 - Presentation slides of R Owers Evidence
- Apt 1.1 B12 - Notes for Presentation slides of R Owers Evidence
- Apt 1.2 - R Owers Summary Proof of Evidence

DESIGN - STEWART

- Apt 2.1a - Peter Stewart Proof of Evidence
- Apt 2.1b - Appendices to evidence of Peter Stewart
- Apt 2.2 - Peter Stewart Summary Proof of Evidence

NEED - SENNETT

- Apt 3.1a - James Sennett Proof of Evidence
- Apt 3.1b - Appendices of evidence to James Sennett
- Apt 3.2 - James Sennett Summary Proof of Evidence
- Apt 3.3 - James Sennett Rebuttal proof - of Woodburn and Sahadevan
- Apt 3.4 - James Sennett Second Rebuttal Proof - of Owers

TRANSPORT - BELLAMY

- Apt 4.1a - Graham Bellamy Proof of Evidence
- Apt 4.1b - Volume 1 Appendices of Graham Bellamy Proof of Evidence
- Apt 4.1c - Volume 2 Appendices of Graham Bellamy Proof of Evidence
- Apt 4.2 - Graham Bellamy Summary Proof of Evidence
- Apt 4.3 - Rebuttal of Woodburn

VIABILITY - STEPHENSON

- Apt 5.1a - John Stephenson Proof of Evidence
- Apt 5.1b - Appendices 1 - 15 of John Stephenson's Proof of Evidence
- Apt 5.1b.16 - Table of Employment Densities
- Apt 5.1b.17 - Table of Historic UK Consumer Price Index Rates
- Apt 5.2 - John Stephenson Summary Proof of Evidence
- Apt 5.3 - Rebuttal of Lee and Sahadevan

CONTAMINATION - ANDREWS

- Apt 6.1a - Tobias Trevor Andrews Proof of Evidence
- Apt 6.1b - Appendix 1 to Tobias Trevor Andrews Proof of Evidence
- Apt 6.1b - Appendix 2 - 9 to Tobias Trevor Andrews Proof of Evidence
- Apt 6.2 - Tobias Trevor Andrews Summary Proof of Evidence
- Apt 6.3 - Rebuttal of Crowcroft

PLANNING - WEATHERHEAD

- Apt 7.1a - Peter Weatherhead Proof of Evidence
- Apt 7.1b - Appendix 1
- Apt 7.1b2 - Appendix 2
- Apt 7.1b3 - Appendix 3
- Apt 7.1b4 - Rochdale ex parte Milne, High Court judgement
- Apt 7.1b5 - GVA Grimley Newham Retail Study - March 2010, extract
- Apt 7.1b6 - Newham Community Infrastructure Study, Base Report Summary, June 2010
- Apt 7.2 - Peter Weatherhead Summary Proof of Evidence
- Apt 7.3 - Peter Weatherhead Supplementary Proof

NEWHAM CONCERN DOCUMENTS

MARTIN A FELLOWS

NCL 1.1 - Martin Fellows Proof of Evidence

NCL 1.2 - Appendix 2

NCL 1.3 - Appendix 4

J TAYLOR

NCL 2.1 - Proof of Evidence

NCL 2.2 - App 1

NCL 2.3 - App 2

NCL 2.4 - App 3

NCL 2.5 - App 4

NCL 2.6 - App 5

NCL 2.7 - App 6

KEVIN FITZGERALD

NCL 3.1 - Kevin Fitzgerald Proof of Evidence

NCL 3.2 - App 1

NCL 3.3 - App 2

NCL 3.4 - App 3

NCL 3.5 - App 4

NCL 3.6 - App 5

NCL 3.7 - Fitzgerald Rebuttal Proof

M ORR

NCL 4.1 - Proof of Mr M Orr

NCL 4.2 - Appendices of Mr M Orr

JANE HARRIS

NCL 5.1 - Jane Harris Documents

NCL 5.2 - Earlier correspondence with PINS

NCL 5.3 - Documents of Tehamina Kazi (taken on board by Ms Harris)

NEWHAM PEOPLES ALLIANCE DOCUMENTS

BEN NORTH

NPA 1.1 - Proof of Ben North

BILAL HASSAN

NPA 2.1 - Proof and appendices of Bilal Hassan

NPA 2.2 - Appendix 1 - Petition

NPA 2.3 - Appendix 2 - Letter from Assoc of Muslim Schools

NPA 2.4 - Appendix 3 - Letter from Thornsett Group

NPA 2.5 - Appendix 4 - Letter from Mr I Bigas

NPA 2.6 - Appendix 5 - Letter from Mr A Hussain

APPENDIX 2Glossary of acronyms

µg	Microgram
µg/m ³	Micrograms per metre cubed
AMI	Auto-zeroing mercury instrument
AOD	Above average datum
APT	Appellants
CA	Conservation Area
CAMP	Conservation Area Character Appraisal and Management Plan
CD	Core document
CGI	Computer generated imagery
CPZ	Controlled parking Zone (see also RPZ)
CS	Newham's Core Strategy
DAS	Design and Access Statement
DL	Decision letter
DLR	Docklands Light Railway
EA	Environment Agency
EIA	Environmental Impact Assessment
EiP	Examination in Public
ERM	Environmental Resource management
ES	Environmental Statement
FALP	Draft Further Alterations to the London Plan
GLA	Greater London Assembly
GMW	Grant Mills Wood
HM	Hilson Moran
hrph	Habitable rooms per hectare
HSE	Health and Safety Executive
IR	Inspector's Report
LBC	London Borough Council
LBN	London Borough of Newham
LDF	London Development Framework
LLDC	London Legacy Development Corporation
LP	Local Plan
LPA	Local Planning Authority
LTGDC	London Thames Gateway Development Corporation
LU	London Underground
LUL	London Underground Limited
m	Metre or Million
m ²	Metre squared
m ³	Metre cubed
Mg	Milligram
Mm	Millimetre
MOA	Memorandum of Agreement
MOZ	Major Opportunity Zone
NCL	Newham Concern Limited
NPA	Newham Peoples Alliance
NPPF	National Planning Policy Framework
NPPG	National Planning Policy Guidance
ODA	Olympic Delivery Authority
OLSPG	Olympic Legacy Supplementary Planning Guidance
PCA	Planning and Compulsory Purchase Act 2004

PLBCAA	Planning (Listed Buildings and Conservation Areas) Act 1990
PPPA	Project Planning Performance Agreement
PR	Public Relations
PRfR	Putative Reason(s) for Refusal
PTAL	Public Transport Accessibility Level
QTS	Quality Traffic Surveys
REMA	Revised Early Minor Alterations to the London Plan
RfC	Reference Concentration
RfR	Reason(s) for Refusal
RPZ	Residents' Parking Zone (see also CPZ)
SHLAA	Strategic Housing Land Availability Assessment
SHMA	Strategic Housing Market Assessment
SoCG	Statement of Common Ground
SPG	Supplementary Planning Guidance
sqm	Square metre
TA	Transport Assessment
TCPA	Town and Country Planning Act 1990
TfL	Transport for London
TL	Tube lines
UDP	Unitary Development Plan
UU	Unilateral Undertaking
VOCs	Volatile Organic Compounds
WHO	World Health Organisation

Abbreviations appearing in the footnotes

x	Examination in chief
xx	Cross examination

APPENDIX 3A

Conditions to be imposed on outline planning permission Appeal A

- 1) Details of the appearance, landscaping, scale and means of access (hereinafter called "the reserved matters") shall be submitted to and approved in writing by the local planning authority before any development is commenced and shall be carried out as approved.

Reason: To comply with Article 2 of the Town and Country Planning (Applications) Regulations 1988 and Section 92 of the Town and Country Planning Act 1990.

- 2) The development hereby approved shall only be carried out in accordance with the approved plans and documents listed below. No other drawings or documents apply. Nothing in this condition prevents the appellants submitting different details to the Local Planning Authority for consideration and approval as reserved matters.

Parameter plans:

- 2478_D003 dated July 2012 (Location Plan)
- 2478_D004 dated July 2012 (Site Plan)
- 2478_D005 dated July 2012 (Block Plan)
- 2478_D006 dated July 2012 (Masterplan Uses Drawing)
- 2478_D007 Rev A dated July 2012 (Rev 23.08.2012) (Masterplan Building Heights)
- 2478_D008 dated July 2012 (Masterplan Access and Linkages)
- 2478_D100 dated July 2012 (Level 0: Lower Ground Floor)
- 2478_D101 dated July 2012 (Level 1: Upper Ground Floor)
- 2478_D102 dated July 2012 (Level 2: Foyer Mezzanine)
- 2478_D103 dated July 2012 (Level 3: Men's Gallery)
- 2478_D104 dated July 2012 (Level 4: 2nd Floor of Library and Accommodation)
- 2478_D105 dated July 2012 (Level 5: Women's Gallery)
- 2478_D106 dated July 2012 (Level 6: Imam's Apartments)
- 2478_D107 dated July 2012 (Roof Plan)
- 2478_D200 dated July 2012 (Long Section looking north east)
- 2478_D201 dated July 2012 (Long Section looking south west)
- 2478_D202 dated July 2012 (Cross Section looking south east)
- 2478_D203 dated July 2012 (Cross Section through porch)
- 2478_D204 dated July 2012 (Section along Riverside)
- 2478_D300 dated July 2012 (South West Elevation)
- 2478_D301 dated July 2012 (North East Elevation)
- 2478_D302 dated July 2012 (South East Elevation)
- 2478_D601 Rev A dated July 2012 (Rev 17.08.2012) (Sports Pavilion Ground Floor Plan)
- 2478_D602 dated July 2012 (Pavilion Elevations & Sections)
- 2478_D603 Rev A dated July 2012 (Rev 17.08.2012) (Sports Pavilion Roof Plan)

Reason: To ensure that the development is undertaken in accordance with the approved drawings and documents in the interest of visual amenity, nearby residential amenity and highway safety.

- 3) The development hereby permitted shall be begun either before the expiration of five years from the date of this permission, or before the expiration of two years from the date of approval of the last of the reserved matters to be approved, whichever is the later.

Reason: To comply with Article 2 of the Town and Country Planning (Applications) Regulations 1988 and Section 92 of the Town and Country Planning Act 1990.

- 4) Before the development hereby permitted is commenced a scheme indicating the provision to be made for disabled people to gain access to the mosque and its ancillary facilities shall have been submitted to and approved by the local planning authority. The agreed scheme shall be implemented before the development hereby permitted is brought into use.

Reason: To ensure an open and inclusive development for all members of the community.

- 5) The plans and particulars submitted in accordance with Condition 1 above in relation to landscaping shall include:
- (a) a plan showing the location of, and allocating a reference number to, each existing tree on the site which has a stem with a diameter, measured over the bark at a point 1.5 metres above ground level, exceeding 75 mm, showing which trees are to be retained and the crown spread of each retained tree;
 - (b) details of the species, diameter (measured in accordance with paragraph (a) above), and the approximate height, and an assessment of the general state of health and stability, of each retained tree and of each tree which is on land adjacent to the site and to which paragraphs (c) and (d) below apply;
 - (c) details of any proposed topping or lopping of any retained tree, or of any tree on land adjacent to the site;
 - (d) details of any proposed alterations in existing ground levels, and of the position of any proposed excavation within the crown spread of any retained tree or of any tree on land adjacent to the site within a distance from any retained tree, or any tree on land adjacent to the site, equivalent to half the height of that tree.
 - (e) details of the specification and position of fencing for the protection of any retained tree from damage before or during the course of development.

In this condition "retained tree" means an existing tree which is to be retained in accordance with the plan referred to in paragraph (a) above. The plans and particulars submitted in accordance with Condition 1 above shall include details of the size, species, and positions or density of all trees to be planted, and the proposed time of planting.

Reason: In order to maintain a suitable setting for the proposed development in the interest of visual amenity.

- 6) Details shall be submitted on a plan to and approved in writing by the local planning authority indicating the positions, design, materials and type of

boundary treatment to be erected. The boundary treatment shall be completed before the use hereby permitted is commenced. The development shall be carried out in accordance with the approved details and retained thereafter.

Reason: In order to maintain a suitable setting for the proposed development in the interest of visual amenity.

- 7) No development shall take place until details of a phasing and construction management scheme have been submitted to and approved in writing by the local planning authority indicating how development will proceed in sequence, and how the impacts of construction shall be mitigated, including the impacts of construction waste. The details submitted shall include proposals to ensure air quality is maintained during construction and prevent any harmful effects to those occupiers living close to the site. The construction and phasing of the development shall be carried out in accordance with the approved scheme.

Reason: To protect the amenity of the locality.

- 8) Samples of the materials to be used in the construction of the external surfaces shall be submitted to and approved in writing by the local planning authority. The development shall be carried out in accordance with the approved details.

Reason: To ensure a satisfactory standard of external appearance in the interest of visual amenity and to ensure that the development does not prejudice the appearance of the locality.

- 9) Details of any floodlighting shall be submitted to and approved in writing by the local planning authority before the use hereby permitted commences and the buildings are occupied for religious use. The development shall be carried out in accordance with the approved details.

Reason: To protect the amenity of the locality

- 10) Before the development hereby permitted is commenced a Travel Plan shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved details.

Reason: To protect the amenity of the locality and ensure sustainable modes of travel

- 11) No amplification equipment resulting in noise audible outside of the site boundaries shall be used for the purposes of, or in association with, the use of the appeal site hereby permitted.

Reason: To prevent loss of amenity to neighbouring residential premises and the surrounding environment due to noise generated from the premises.

- 12) No development shall take place until a permeability plan addressing how multiple pedestrian linkages across the appeal site will be realised, including details of routes, treatment, signage and wayfinding is submitted to and approved in writing by the Local Planning Authority. The scheme shall include links along the river edge/tow path. The approved scheme shall be implemented and retained thereafter.

Reason: In the interest public accessibility and improving linkages in the locality.

- 13) No development shall take place until a scheme for the provision and management of an 8 metre wide buffer zone alongside the watercourse shall be submitted to and agreed in writing by the local planning authority. Thereafter the development shall be carried out in accordance with the approved scheme and any subsequent amendments shall be agreed in writing with the local planning authority.

Reason: To protect and improve the ecological value of the river corridor.

- 14) Before the development hereby permitted is commenced details of an operational refuse management strategy including the proposed design and location of facilities for the storage of refuse and recyclable materials (including the means of access for refuse vehicles) shall be submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in accordance with the approved scheme. The approved details shall be implemented prior to the first occupation/use of the development and retained thereafter.

Reason: To ensure adequate and hygienic refuse disposal and to protect the amenity of the locality and to protect the environment.

- 15) No development shall take place until full details of works including car parking layouts; other vehicle and pedestrian access and circulation areas; hard surfacing materials; minor artefacts and structures; proposed and existing functional services above and below ground have been submitted to and approved in writing by the local planning authority. The works shall be carried out as approved and retained thereafter.

Reason: To ensure adequate parking facilities are retained for the development and to prevent overspill car parking within the vicinity of the site and to protect the amenities of the locality.

- 16) No development shall commence until details of the type and location of secure and covered cycle parking facilities have been submitted to and approved in writing by the Local Planning Authority. The development shall only be carried out in accordance with the approved details. The approved details shall be implemented prior to the first use or occupation of the development, and shall thereafter be permanently retained.

Reason: To promote sustainable modes of transport and to ensure that adequate parking for the development is provided.

- 17) No development shall commence until details of a parking and access management scheme shall be submitted to and approved by the Local Planning Authority. The scheme shall include measures relating to on-site parking, drop-off and pick-up, coach parking, an onsite all modes movement management strategy and a strategy for managing access to/from the site. The scheme shall be implemented as approved.

Reason: To ensure adequate parking facilities are retained for the development and to prevent overspill car parking within the vicinity of the site and to protect the amenities of the locality.

- 18) No impact piling shall take place until a piling method statement detailing the 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 in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.

Reason: The proposed works will be in close proximity to underground sewerage utility infrastructure. Piling has the potential to impact on local underground sewerage utility infrastructure.

- 19) No development shall occur until a scheme to address the risks associated with contamination of the site (to include where necessary the removal of contaminating material) is submitted to and approved, in writing, by the Local Planning Authority. The scheme shall conform to the requirements of the Defra/Environment Agency risk management framework contained in the Model Procedures for the Management of Land Contamination, (CLR 11 [2004]) and include the following four components:
- i) *A preliminary risk assessment* which has identified:
 - (a) All previous uses of the appeal site
 - (b) Potential contaminants associated with those uses
 - (c) A conceptual model of the site indicating sources, pathways and receptors
 - (d) Potentially unacceptable risks arising from contamination at the site.
 - ii) *A site investigation scheme*, based on (i) to provide information for a detailed assessment of the risk to all receptors that may be affected, including those off site; and *a detailed quantitative risk assessment* which identifies all significant pollutant linkages and associated risks in relation to the proposed future use of the site, including risks to human health, the built development and the wider environment on and off-site. The report of the investigation and risk assessment shall be submitted to and approved in writing by the Local Planning Authority before commencement of works on site.
 - iii) *A remediation options appraisal* and *a remediation strategy* which is based on the results of the site investigation and detailed risk assessment referred to in (i) and (ii) that gives full details of the remediation measures required and how they are to be undertaken. For any measures which require on-going management or maintenance beyond the construction phase of the works, the strategy should address the scope of the works, and identify how they will be managed in the future. The remediation strategy shall be submitted to and approved in writing by the Local Planning Authority before commencement of works on site.
 - iv) *A verification plan* providing details of the data that will be collected in order to demonstrate that the works set out in the remediation strategy in (iii) are complete and identifying any requirements for longer-term monitoring of pollutant linkages, maintenance and arrangements for contingency action. The verification plan shall be submitted to and approved in writing by the Local Planning Authority before commencement of works on site.

Any changes to the components of any approved scheme shall require the express written consent of the Local Planning Authority. The development hereby approved shall be carried out in accordance with the details approved pursuant to this condition.

Reason: To protect human health of future users of the site and adjoining neighbours, surface waters and groundwater and any other sensitive receptors (ecology, building structures etc).

- 20) No occupation of any phase of the development hereby approved and as outlined in the approved Phasing and Construction Management Scheme (as referenced in Condition 6) shall occur until a verification report in conformity with Environment Agency Guidance 'Verification of Remediation of Land Contamination' which demonstrates completion of works set out in the approved remediation strategy (as referenced in Condition 20) and the effectiveness of those works for each phase shall be submitted to and approved in writing by the Local Planning Authority. The verification report shall include results of sampling and monitoring carried out in accordance with the approved verification plan to demonstrate that the site remediation criteria have been met. It shall also include a scheme (the "long-term management, monitoring and maintenance plan") for monitoring of pollutant linkages, and management and maintenance of the remediation works and arrangements for contingency action, as identified in the verification plan. The development shall be carried out and thereafter used in accordance with the long-term management, monitoring and maintenance plan.

Reason: To protect human health, groundwater and surface water and other sensitive receptors by ensuring any remediation required by the previous condition has been successfully undertaken to an acceptable standard, and that the site no longer poses unacceptable risks.

- 21) If, during the construction of the development hereby approved, contamination not previously identified is found to be present at the site, no further development (unless otherwise agreed in writing with the Local Planning Authority) shall be carried out until the Appellant has submitted a Revised Remediation Scheme to the Local Planning Authority detailing how this previously unidentified contamination shall be addressed and obtained written approval for this revised strategy from the Local Planning Authority. The revised remediation strategy shall be implemented as approved.

Reason: To protect human health of future users of the site and adjoining neighbours, surface waters and groundwater and any other sensitive receptors (ecology, building structures etc).

- 22) No development should take place until a monitoring, mitigation and maintenance plan in respect of contamination, hydrology and water quality, including a timetable of monitoring and submission of reports to the Local Planning Authority and the Environment Agency shall be submitted to and approved in writing by the Local Planning Authority. Reports as specified in the approved plan, including details of any necessary contingency action arising from the monitoring, shall be submitted to and approved in writing by the Local Planning Authority. Any necessary contingency measures shall be carried out in accordance with the details in the approved reports. On completion of the monitoring specified in the plan a final report demonstrating that the agreed thresholds have not been breached and that the activity permitted by this planning permission has not had a detrimental impact on groundwater quality or the Channelsea River shall be submitted to and approved in writing by the Local Planning Authority.

Reason: This condition is required to ensure the protection of controlled waters. To ensure no deterioration of groundwater or surface water quality and to ensure remediation works are successful in compliance with the objectives of the Water Framework directive.

- 23) No infiltration of surface water drainage into the ground at this site inside or outside the containment slurry wall is permitted other than with the express written consent of the Local Planning Authority. The development hereby approved shall be carried out in accordance with the details of any consent granted.

Reason: To protect groundwater from pollution via remobilisation of contaminants in soil and/or preferential pathways for contaminant migration.

- 24) The development hereby permitted shall not be commenced until such time as a scheme to:
- (a) demonstrate how foul and surface water will be disposed of; and
 - (b) demonstrate how roof drainage will be disposed of has been submitted to, and approved in writing by, the Local Planning Authority. With reference to (2), the scheme shall demonstrate how roof drainage is sealed at ground level. The schemes shall be implemented as approved to the satisfaction of the Local Planning Authority.

Reason: To protect groundwater resources.

- 25) The development permitted by this permission shall only be carried out in accordance with the approved Flood Risk Assessment (FRA Appendix G1 to the Environmental Statement) and the following mitigation measures detailed within the FRA: The discharge of all surface water run-off generated from the development (other than a small input to the Crow Road adopted highway drainage sewer) to the Channelsea River.

Reason: To prevent flooding by ensuring the satisfactory storage of/disposal of surface water from the site. To ensure that surface water will be disposed of in the most sustainable method possible in compliance with the drainage hierarchy within policy 5.13 of the London Plan and policy SC3 Flood Risk of Newham's Core Strategy.

- 26) No development approved by this permission shall commence until the following detailed engineering reports for all lengths of the flood defence wall around the site and its supporting anchorage system have been submitted and agreed in writing by the Local Planning Authority in consultation with the Environment Agency:
- (a) A report identifying their structural condition and life expectancy.
 - (b) A report identifying proposals for a repair or replacement (as appropriate) for any structural component that in general has a life span of less than 100 years.
 - (c) A report identifying environmental impacts and any works and measures necessary to compensate and mitigate for such impacts.

Reason: To ensure that flood defence protection for the site will be commensurate with the lifetime of the development and that environmental impacts are fully taken into account.

- 27) There shall be no occupation of the new mosque buildings hereby approved until a security scheme has been submitted to and approved in writing by the local

planning authority. The scheme shall address the provision of CCTV for the site. The scheme shall be implemented as approved and retained thereafter.

Reason: To ensure that the development is appropriately completed and operated in accordance with secure by design principles and achieves community safety.

- 28) There shall be no occupation of the new mosque buildings hereby approved until a large event managements scheme has been submitted to and approved in writing by the local planning authority. The scheme shall state a definition of a 'large event' at the appeal site, and propose mitigation measures to address the impacts of large events. The approved scheme shall be implemented as approved unless agreed in writing by the Local Planning Authority.

Reason: To ensure that the operation of the completed mosque operating at full capacity does not cause problems of noise, disturbance, traffic and parking problems for the local area.

- 29) Before any new building on site is first occupied for its approved use, a scheme for the continuous monitoring of air quality within the buildings, including the installation of dedicated mercury monitoring equipment and monitoring within the ablution areas. A timetable for implementation of the approved scheme and continuing monitoring (The Air Quality Monitoring Scheme) shall be submitted to (and approved in writing by) the local planning authority as part of the submitted scheme for air quality monitoring. Thereafter use of any building shall be carried on in accordance with the approved scheme.

Reason: To ensure that the health and safety of everyone using any of the buildings on site is not adversely affected.

- 30) The approved Crowd Marshalling Code of Conduct Statement (as per approved application 11/01028/LTGAOD) shall continue to be carried out in accordance with the terms of the approval.

Reason: To protect the amenity of the locality.

APPENDIX 3B

Conditions to be imposed on planning permission – Appeal B

- 1) The use hereby approved shall be for a limited period, expiring two years after the date of decision. Upon expiry of the permission the use shall cease and the buildings hatched red on drawing 5061.11 attached to Core Document F5 (Enforcement Notice) shall be removed. Three months before the expiry date of the planning permission, a land reinstatement scheme, including a timetable for the reinstatement, shall be submitted to and approved in writing by the local planning authority. The reinstatement shall thereafter be carried out in accordance with the approved scheme and associated timetable.

Reason: To protect the environment and human health

- 2) No amplification equipment resulting in noise audible outside of the site boundaries shall be used for the purposes of, or in association with, the use of the appeal site hereby permitted.

Reason: To protect the amenity of the locality

- 3) The approved Crowd Marshalling Code of Conduct Statement (as per approved application 11/01028/LTGAOD) shall continue to be carried out in accordance with the terms of the approval.

Reason: To protect the amenity of the locality

- 4) The use hereby approved shall take place only within the land shown on drawing number 5061/02D. There shall be no public access (whether by foot, cycle, car or any other means) in connection with the use to any areas within the site other than on the area on the plan.

Reason: To protect human health and the users of the community facility hereby approved.

- 5) Within 3 months of the issue of decision the appellants shall submit in writing for approval to the local planning authority a Fence Repair Scheme to demonstrate how the gaps in the temporary fencing assembly (as delineated on Plan 5061/02D) will be securely closed. The scheme approved shall be implemented within 1 calendar month of approval and retained thereafter.

Reason: To protect human health and the user of the community facility hereby approved to ensure there is no access by users beyond the temporary fencing to land outside the area shown in Plan 5061/02D.

- 6) Within three months of the grant of planning permission, an air sampling survey shall be submitted in writing to and approved by the Local Planning Authority. The scheme shall include a survey undertaken in all rooms of the mosque, using pumped air samples captured on sorbent tubes, and analysed with a limit of detection of not less than 0.1 µg/m³. The survey shall be conducted entirely by

an independent, suitably qualified organisation. The survey should be run for a period of four weeks, with the sorbent tube being replaced once every week in each location, so that four 7 day average results can be provided for each room.

Reason: To protect human health and the users of the community facility hereby approved.

- 7) If the submitted survey referred to in Condition 6 reveals that mercury contamination likely to cause harm (defined as concentrations of mercury in air exceeding $1\mu\text{g}/\text{m}^3$) to the users of the development is identified, the use of the appeal site will be suspended until a scheme, which shall include any necessary mitigation works and a timetable for their implementation (The Unexpected Contamination Scheme) has, within one month, been submitted to and approved in writing by the planning authority and thereafter the development shall be carried out in accordance with the approved scheme. An AMI instrument should be kept operational and running at all times in the event the use ceases to allow calibration against the detailed sampling survey.

Reason: To protect human health and the users of the facilities hereby approved.

- 8) With three months of the permission being granted, a verification report shall be submitted in writing in writing to the Local Planning Authority providing evidence of both the installation and demonstration of the full and effective seal of the membrane using smoke or tracer gas tests.

Reason: To protect human health and users of the facilities hereby approved.

- 9) Within three months of the grant of planning permission, an updated travel plan shall be submitted to and approved in writing by the planning authority. The updated travel plan shall be implemented within one month of the date of approval and thereafter the development shall be carried out in accordance with the approved updated travel plan.

Reason: To protect the amenity of the locality and ensure safety on the highway.

- 10) All vehicles parked on the site shall only park within the area of hard standing shaded blue and marked 'Car Park' on the Map 2 attached to Core Document F5 (Enforcement Notice). The number of vehicles parked upon the area of hard standing shaded blue on Map 2 shall not exceed 300.

Reason: To protect the amenity of the locality

- 11) The use of the buildings hereby permitted shall cease; the buildings shown hatched red on Drawing 5061:11 shall be removed and services to them capped; all resulting debris shall be removed from the site and the use of the area shown coloured light blue and labelled 'car park' on Plan 2 attached to the Notice shall cease within six weeks of the date of failure to meet any one of the requirements set out in i) to iv) below in relation to conditions 5 – 9:
- i) within three months of the date of this decision, the appellants have failed to lodge a valid application to discharge conditions 5-9;
 - ii) within eleven months of the date of this decision the scheme(s) shall have been approved by the local planning authority; if the local planning authority refuse to approve the scheme(s) or fail to give a

- decision within the prescribed period an appeal shall have been made to, and accepted as valid by, the Secretary of State;
- iii) if an appeal is made in pursuance of (ii) above, that appeal shall have been finally determined and the submitted scheme(s) shall have been approved by the Secretary of State;
 - iv) the approved scheme shall have been carried out and completed in accordance with the approved timetable(s).

RIGHT TO CHALLENGE THE DECISION IN THE HIGH COURT

These notes are provided for guidance only and apply only to challenges under the legislation specified. If you require further advice on making any High Court challenge, or making an application for Judicial Review, you should consult a solicitor or other advisor or contact the Crown Office at the Royal Courts of Justice, Queens Bench Division, Strand, London, WC2 2LL (0207 947 6000).

The attached decision is final unless it is successfully challenged in the Courts. The Secretary of State cannot amend or interpret the decision. It may be redetermined by the Secretary of State only if the decision is quashed by the Courts. However, if it is redetermined, it does not necessarily follow that the original decision will be reversed.

SECTION 1: PLANNING APPEALS AND CALLED-IN PLANNING APPLICATIONS

The decision may be challenged by making an application for permission to the High Court under section 288 of the Town and Country Planning Act 1990 (the TCP Act). This new requirement for permission to bring a challenge applies to decisions made on or after 26 October 2015.

Challenges under Section 288 of the TCP Act

With the permission of the High Court under section 288 of the TCP Act, decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged. Any person aggrieved by the decision may question the validity of the decision on the grounds that it is not within the powers of the Act or that any of the relevant requirements have not been complied with in relation to the decision. An application for leave under this section must be made within six weeks from the date of the decision.

SECTION 2: ENFORCEMENT APPEALS

Challenges under Section 289 of the TCP Act

Decisions on recovered enforcement appeals under all grounds can be challenged under section 289 of the TCP Act. To challenge the enforcement decision, permission must first be obtained from the Court. If the Court does not consider that there is an arguable case, it may refuse permission. Application for leave to make a challenge must be received by the Administrative Court within 28 days of the decision, unless the Court extends this period.

SECTION 3: AWARDS OF COSTS

A challenge to the decision on an application for an award of costs which is connected with a decision under section 77 or 78 of the TCP Act can be made under section 288 of the TCP Act if permission of the High Court is granted.

SECTION 4: INSPECTION OF DOCUMENTS

Where an inquiry or hearing has been held any person who is entitled to be notified of the decision has a statutory right to view the documents, photographs and plans listed in the appendix to the Inspector's report of the inquiry or hearing within 6 weeks of the date of

the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.