



Department for Levelling Up,  
Housing & Communities

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London  
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Our ref: APP/E5900/W/22/3307773  
Your ref: PA/21/00900

28 March 2024

*Sent by email only*  
iyabo.johnson@savills.com

Dear Madam

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78  
APPEAL MADE BY CHALEGROVE PROPERTIES LTD, IN RESPECT OF 225 MARSH  
WALL, LONDON E14 9FW. APPLICATION REF: PA/21/00900**

*This decision was made by Simon Hoare MP, Minister for Local Government on behalf of  
the Secretary of State*

1. I am directed by the Secretary of State to say that consideration has been given to the report of John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI, who held a public local inquiry on 7 to 10 February 2023 into your client's appeal against the decision of Tower Hamlets Council to refuse your client's application for planning permission for the erection of a ground plus 55-storey residential building (Use Class C3), ground floor flexible commercial space (Use Class E), basement cycle storage, resident amenities, public realm improvements and other associated works, in accordance with application Ref. PA/21/00900, dated 16 April 2021.
2. On 17 March 2023, this appeal 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 Planning Act (TCPA) 1990.

**Inspector's recommendation and summary of the decision**

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions.
4. For the reasons given below, the Secretary of State agrees with the Inspector's conclusions, and agrees with his recommendation. He has decided to allow the appeal and grant planning permission. The Inspector's Report (IR) is attached. 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) Regulations 2017. The Secretary of State is satisfied that the composite Environmental Statement and other additional information provided complies with the above Regulations and that sufficient information has been provided for him to assess the environmental impact of the proposal.

## **Matters arising since the close of the inquiry**

6. A revised version of the National Planning Policy Framework (the Framework) was published on 19 December 2023 and amended on 20 December 2023. The Secretary of State notes that the revised version of the Framework further emphasises the role of beauty in planning. He has considered whether it is necessary to refer back to parties for their further comments in the light of these changes. However, as this is an enhanced emphasis rather than the introduction of a new concept, and as the Inspector records at IR82 the main issue is the effect of the proposed development on the character and distinctiveness of the Canary Wharf Tall Building Zone (CWTBZ) and the Canary Wharf Skyline of Strategic Importance (CWSSI), and as good design is considered throughout, the Secretary of State does not consider that these revisions require a reference back to parties. He further does not consider that any of the other changes to this version of the Framework require a reference back to parties. The IR contains paragraph references to the previous version of the Framework; this decision letter refers to both the old and the new paragraph numbers, where these are different.
7. Provisions relating to mandatory Biodiversity Net Gain (BNG) have been commenced for planning permissions granted in respect to an application made on or after 12 February 2024. Permission granted for applications made before this date are not subject to mandatory BNG.
8. A list of representations which have been received since the inquiry is at Annex A. The Secretary of State considers no new issues were raised in representations that required referral back to parties and has considered the issues raised regarding noise, and addresses this in paragraph 21 below. Copies of these letters may be obtained on request to the email address at the foot of the first page of this letter.

## **Policy and statutory considerations**

9. In reaching his decision, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act (PCPA) 2004 which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise.
10. In this case the development plan consists of The London Plan (LP) (adopted 2021) and the Tower Hamlets Local Plan (THLP) (adopted 2020). The Secretary of State considers that relevant development plan policies include those set out at IR4–7.
11. Other material considerations which the Secretary of State has taken into account include the Framework and associated planning guidance (the Guidance).
12. 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 proposals, or

their settings or any features of special architectural or historic interest which they may possess.

## **Planning History**

13. As set out at IR8 the site benefits from planning permission for redevelopment of the site to provide a ground plus 48 storey building for residential, community and commercial uses. The Secretary of State notes that at the time of the Inquiry the superstructure of the building had reached about 40 stories in height. The Secretary of State concludes that the extant permission represents a genuine fall-back position for development on the site.

## **Main issue**

14. The Secretary of State agrees with the Inspector that the main issue is the effect of the proposed development on the character and distinctiveness of the CWTBZ and the CWSSI (IR82)

### *Effect of the proposed development on the character and distinctiveness of the CWTBZ and the CWSSI*

15. For the reasons set out at IR85, the Secretary of State agrees with the Inspector that the appeal scheme, at a height of about 185 metres, would be just another tall building in the CWSSI and would not, in the panoramic view from Greenwich Park, be intrusive or have any adverse effect on the distinctiveness of the area.
16. The Secretary of State agrees with the Inspector that the design principles of policy D.DH6 of the THLP are relevant and they are specific to the CWTBZ and to the Millwall Inner Dock Tall Building Zone (MIDTBZ), amongst others. He notes that the design principles of the CWTBZ is that building heights should step down from the central location of One Canada Square and a design principle of the MIDTBZ is that building heights should significantly step down from the Canary Wharf cluster (IR86).
17. For the reasons set out at IR87 The Secretary of State agrees with the Inspector that the proposed development would be in accordance with the design principles for the CWTBZ and MIDTBZ by creating a stepdown in height.
18. For the reasons set out at IR88 the Secretary of State agrees with the Inspector that the additional height of the proposed building would assist in maintaining the subservience of the MIDTBZ to the CWTBZ in important views west and east along Marsh Wall, and in the view north along Limeharbour towards its junction with Marsh Wall, and from Greenwich Peninsula on the opposite bank of the river near to the O2 Arena.
19. For the reasons set out at IR89, the Secretary of State agrees with the Inspector that, with regard to the view west from Greenwich Peninsula, the additional height of the proposed building would not harmfully increase its prominence and it would step up from the tall building of the Skyline development. He further agrees that the proposed building would have a better relationship to The Madison and to Dollar Bay than the building currently under construction on the site.
20. Overall, the Secretary of State agrees with the Inspector's conclusions at IR90 that in no view towards the appeal site would the proposed building have an adverse effect on the character and distinctiveness of the CWTBZ or the CWSSI. Furthermore, he agrees that given there would be no adverse effect on the character and distinctiveness of the

CWTBZ or the CWSSI there would be no conflict with THLP policies D.DH4 and D.DH6 or with LP policies D3 and D9.

#### *Other matters*

21. The Secretary of State notes that a noise report was submitted by Digital Realty after the close of the Inquiry to provide acoustics advice in relation to the potential noise from its data centre at Sovereign House. However, the Secretary of State agrees with the Inspector's view at IR79 that the noise condition imposed on the implemented planning permission for the site, and which would be imposed on a permission for the proposed building which requires all of the approved residential units to be constructed to achieve ambient noise levels recommended in British Standards, is sufficient to secure adequate residential amenity for the future residents of the development.
22. The Secretary of State notes that the Council has not raised any concerns related to the significance of heritage assets (IR9). He agrees with this position.
23. The Secretary of State agrees with the Inspector's view at IR91 that the provision of additional housing against objectively assessed need and the provision of additional affordable would be benefits to the scheme. The Secretary of State affords significant weight to the provision of housing and affordable housing.
24. The Secretary of State agrees with the Inspector's view at IR91 that the proposal would provide for a greater carbon reduction in the context of the Tower Hamlets Climate Emergency, as agreed in the Statement of Common Ground. The Secretary of State affords moderate weight to this benefit.
25. The Secretary of State agrees with the Inspector's view at IR91 that the provision of commercial units at ground floor level to activate Marsh Wall and to provide employment floorspace would provide benefits. The Secretary of State affords moderate weight to this benefit.

#### **Planning conditions**

26. The Secretary of State had regard to the Inspector's analysis at IR78-79, the recommended conditions set out at the end of the IR and the reasons for them, and to national policy in paragraph 56 of the Framework and the relevant Guidance. He is satisfied that the conditions recommended by the Inspector comply with the policy test set out at paragraph 56 of the Framework and that the conditions set out at Annex B should form part of his decision.

#### **Planning obligations**

27. The Secretary of State has had regard to the Inspector's analysis at IR80-81, the planning obligation dated 10 February 2023, paragraph 57 of the Framework, the Guidance and the Community Infrastructure Levy (CIL) Regulations 2010, as amended. For the reasons given at IR80-81, he agrees with the Inspector's conclusion that the obligation complies with Regulation 122 of the CIL Regulations 2010 and the tests at paragraph 57 of the Framework.

#### **Planning balance and overall conclusion**

28. For the reasons given above, the Secretary of State considers that there are no material conflicts with any relevant development plan policies, and that the appeal scheme is in

accordance with THLP policies D.DH4 and D.DH6 and with LP policies D3 and D9, and is in accordance with the development plan overall. He has gone on to consider whether there are material considerations which indicate that the proposal should be determined other than in line with the development plan.

29. Weighing in favour of the proposal are: the provision of additional housing against objectively assessed need and the provision of additional affordable housing against a persistent and acute need in Tower Hamlets, which carry significant weight; a greater carbon reduction in the context of the Tower Hamlets Climate Emergency, which carries moderate weight; and the provision of commercial units at ground floor level to activate Marsh Wall and to provide employment floorspace, which carries moderate weight.
30. Like the Inspector, the Secretary of State has not identified any material considerations which carry weight against the proposals.
31. Overall, in applying s.38(6) of the PCPA 2004, the Secretary of State considers that the accordance with the development plan and the material considerations in this case indicate that permission should be granted.
32. The Secretary of State therefore concludes that planning permission should be granted.

#### **Formal decision**

33. Accordingly, for the reasons given above, the Secretary of State agrees with the Inspector's recommendation. He hereby allows your client's appeal and grants planning permission subject to the conditions set out in Annex B of this decision letter for the erection of a ground plus 55-storey residential building (Use Class C3), ground floor flexible commercial space (Use Class E), basement cycle storage, resident amenities, public realm improvements and other associated works, in accordance with application ref PA/21/00900, dated 16 April 2021.
34. This letter does not convey any approval or consent which may be required under any enactment, bye-law, order or regulation other than section 57 of the TCPA 1990.

#### **Right to challenge the decision**

35. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged. This must be done by making an application to the High Court within 6 weeks from the day after the date of this letter for leave to bring a statutory review under section 288 of the TCPA 1990.
36. A copy of this letter has been sent to Tower Hamlets Council and notification has been sent to others who asked to be informed of the decision.

Yours faithfully

*Laura Webster*

Decision officer

*This decision was made by Simon Hoare MP, Minister for Local Government, on behalf of the Secretary of State, and signed on his behalf*

## Annex A Schedule of representations

### General representations

Party	Date
Rapleys LLP	2 June 2023

## Annex B List of conditions

1. The development hereby permitted shall begin no later than 3 years from the date of this decision'

*Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).*

2. The development hereby permitted shall be carried out in accordance with the approved drawings and documents listed in a schedule to this decision notice.

*Reason: For the avoidance of doubt and in the interest of proper planning.*

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), or as expressly agreed through planning condition, no fences, barriers, gates, bollards or other means of enclosure, however temporary, shall be erected within the site following the practical completion of the development.

*Reason: To control future development in the interest of the character, permeability, usability, appearance and quality of the public realm and to safeguard the high quality appearance of the development in accordance with THLP policies S.DH1 and D.DH2.*

4. Unless otherwise specified by a Section 61 Consent granted under the Control of Pollution Act 1974, demolition, building, engineering or other operations associated with the construction of the development (including arrival, departure and loading and unloading of construction vehicles):

- a. Shall be carried out in accordance with the Tower Hamlets Code of Construction Practice;
- b. Shall only be carried out within the hours of 08:00 and 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. No works shall take place on Sundays and Public Holidays;
- c. Any non-road mobile machinery (NRMM) used shall not exceed the emission standards set out in the Mayor of London's 'Control of Dust and Emissions During Construction and Demolition' Supplementary Planning;
- d. Ground-borne vibration shall not exceed 1.0mm/s Peak Particle Velocity (PPV) at residential and 3.0mm/s PPV at commercial properties neighbouring the site;
- e. Noise levels measured 1 metre from the façade of any occupied building neighbouring the site shall not exceed 75dB(A) at residential and commercial properties, and 65dB(A) at schools and hospitals (LAeq,T where T = 10 hours Monday to Friday and 5 hours for Saturday).

*Reason: To safeguard the amenity of local residents and the area generally in accordance with THLP policy D.DH8.*

5. The development hereby permitted shall be carried out in accordance with the approved Demolition Environmental Management Plan LPA Ref. PA/20/01131/S (updated 21st August 2020).

*Reason: To safeguard the amenity of local residents and the area generally in accordance with policies and D.DH8 of the Tower Hamlets Local Plan 2031.*

6. The development hereby permitted shall be carried out in accordance with the approved Construction Environmental Management Plan LPA Ref. PA/20/01019/S (updated 21st August 2020).

*Reason: In the interests of highway and pedestrian safety and to preserve the amenity of the area in accordance with the requirements of THLP policies D.DH8, STR1, D.TR2 and D.TR4.*

7. The tree protection measures in accordance with British Standard 5837 – ‘Trees in relation to Construction Sites’ shall be retained in place for the duration of the construction works and during this period no works other than landscaping works shall be carried out or materials stored within the protected areas underneath the trees.

*Reason: To comply with the duties in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with THLP policy D.ES3.*

8. a. The development hereby permitted shall be carried out in accordance with the approved Land Contamination Remediation details LPA Ref. PA/20/01095;
- i. 225 Marsh Wall, London: Remediation Strategy, Revision 0, dated May 2020. Report Reference: CG/38335A
  - ii. Angel House, 225 Marsh Wall: Executive Technical Summary Report, Revision 0, dated September 2019

b. The contamination remediation works shall be carried out in accordance with the approved details and completed prior to the first occupation of the development. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.

c. If during the works any additional contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either:

- i. The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority; or
- ii. Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.

Any additional land contamination shall be fully remedied prior to the first occupation of the development.

d. The development shall not be occupied until a post completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the local planning authority demonstrating that the site remediation criteria have been met.

*Reason: To make sure that contaminated land is properly treated and made safe before development, to protect public health and to meet the requirements of LP policies 5.21 and 5.22 and THLP policy D.ES8.*



9. The development hereby permitted shall be carried out in accordance with the following approved details:
- a. Archaeological Written Scheme of Investigation LPA Reference PA/20/01334;
    - i. Written Scheme of Investigation for Stage 1A Geoarchaeological Evaluation to Inform Further Works (Dated 19/10/2020);
    - ii. Historic Environment Assessment (Dated September 2016).
  - b. Post-excavation Assessment LPA Reference PA/21/02563/S;
    - i. Cover Letter dated 25 November 2021;
    - ii. 225 Marsh Wall Geoarchaeological Post-excavation assessment and updated project design. November 2021.

*Reason: To ensure that archaeological remains are properly investigated and recorded and to ensure that the development is in accordance with THLP policy S.DH3.*

10. The development hereby permitted shall be carried out in accordance with the following approved Piling Method Statement details:
- a. In respect of Zone A LPA Reference PA/20/01957:
    - i. Drawing Number 5298-WAL-ZZ-ZZ-DR-S-0010 Rev P02 - Thames Water Sewer Interface Drawing;
    - ii. Piling Method Statement Dated 09/09/2020;
    - iii. Ground Movement and Impact Assessment Report Revision 2 prepared by CGL dated September 2020.
  - b. In respect of Zone B LPA Reference Ref.PA/21/00302:
    - i. Emergency Preparedness Plan Design Report prepared by Wentworth House Partnership: Ref: 2779-WHP-A6-XX-RP-Y-0113-S3-P03 dated January 2021.
    - ii. Method Statement Sheet Piling prepared by Keltbray dated January 2021 Rev 00
    - iii. Email from Thames Water to Chalegrove dated 08 February 2021
    - iv. Drawing Number 5298-WAL-ZZ-ZZ-DR-S-0010 Rev P02 – Thames Water Sewer Interface Drawing
    - v. Drawing Number CPL/NW/S L001TD – Proposed Sheet Piling Installation Layout

*Reason: In order to prevent and minimise the potential for damage to subsurface sewerage infrastructure (in consultation with Thames Water), and THLP policy D.ES6.*

11. Prior to the commencement of the 48th floor, an update to the approved Crane Methodology Report approved under LPA Reference PA/20/0254 shall be submitted to and approved in writing by the Local Planning Authority. The updated Crane Methodology Statement shall include geographical coordinates, maximum working height and details of aircraft obstacle lighting. Development shall not be carried out otherwise than in accordance with the approved details.

*Reason: To ensure that the development does not impact on air traffic safety (in consultation with London City Airport) in accordance with THLP policy D.DH6.*

12. The development hereby permitted shall be carried out in accordance with the details of materials approved under PA/22/00243 and PA/22/01045 in relation to:

- a. Sample panels of all principal external cladding materials and fenestration, including details of joints, panel sizes and fixing method for cladding;
- b. Drawings of a typical residential bay at a scale of 1:50 as shown on drawing 18942-DDU-225-XX-DR-A-84202 Rev P2;
- c. Details of fenestration;
- d. Details and samples of roofing;
- e. Details of any balconies and terraces and associated balustrades, soffits and drainage;
- f. Drawings and details of entrances;
- g. Drawings and details of shopfronts;
- h. Details and samples of metal screen at level 01;
- i. Details of external rainwater goods, flues, grilles, louvres and vents;
- j. Details of any external plant, plant enclosures and safety balustrades.

*Reason: To ensure a satisfactory external appearance of the development and that high quality materials and finishes are used, in accordance with THLP policies S.DH1 and D.SG4.*

13. No landscaping works shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:
- a. hard landscaping including ground surfaces, kerbs and planter enclosures;
  - b. soft landscaping including number, size, species and location of plants;
  - c. on-going five-year maintenance and watering provisions for soft landscaping;
  - d. lighting including light spill drawings and proposed Lux levels;
  - e. biodiversity features within landscaping;
  - f. sustainable urban drainage features within landscaping;
  - g. drain covers, manholes and covers for access to drainage and utilities;
  - h. play equipment and playable landscape features;
  - i. railings, walls and other means of enclosure;
  - j. bollards, gates and other access control measures;
  - k. furniture including benches and litter bins;
  - l. CCTV and other security measures;
  - m. ground levels, gradients, thresholds and any inclusive access provisions;
  - n. external cycle parking stands;
  - o. wind mitigation measures;
  - p. public art incorporated within the landscaping scheme (such public art can include bespoke street or play furniture or other bespoke landscape elements); and
  - q. signage and wayfinding measures including Legible London signage.

The landscaping scheme shall be completed in accordance with the approved details no later than during the first planting season following practical completion of the development and shall be retained for the lifetime of the development. Any trees or shrubs which die, are removed or become seriously damaged or diseased within five years from the completion of the landscaping works shall be replaced in the next planting season with the same species or with an approved alternative as agreed in writing by the Local Planning Authority.

*Reason: To ensure a high quality of the public realm, including through providing appropriate permeability, legibility, wayfinding, microclimate and public art; ensure residential amenity; ensure that the development creates a safe and secure*

*environment; ensure provision of biodiversity improvements; ensure that the development provides inclusive access; ensure adequate provision, location and design of visitor cycle parking spaces, in accordance with LP policy G5 and THLP policies S.DH1, D.DH2, S.DH3, D.DH3, D.ES3, and D.TR3.*

14. Prior to the commencement of relevant works full details of the internal and external communal amenity, play area and the roof terraces shall be submitted to and approved in writing by the Local Planning Authority. The communal amenity, play and terrace areas shall be constructed and fitted out in accordance with the approved details, completed prior to the first occupation of the development and retained for the lifetime of the development.

No more than 80% of market units shall be occupied until a Communal Area Management Plan for the internal and external communal amenity, play area and the roof terraces has been implemented and is in operation in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The Communal Area Management Plan shall govern access, management and maintenance arrangements for the communal areas within the building and remain in force for the lifetime of the development.

*Reason: To ensure that the proposal provides an inclusive and accessible environment in accordance with LP policies D5 and S4 and THLP policies S.H1, S.DH1 and D.H3.*

15. The development hereby permitted shall be carried out in accordance with the following approved Design Standards dated 22/02/2022 (LPA Ref. PA/22/00095):
1. Letter to Chalegrove from Metropolitan Police dated 12th April 2021;
  2. Buro Happold V40 Emergency Lighting Strategy;
  3. Buro Happold W40 Security CCTV and Access Control Strategy;
  4. 46738-BHE-225-XX-09-DR-E-10901 Rev P01 – Electrical Services Resi Floor Electrical Services (Affordable) Level 9;
  5. 46738-BHE-225-XX-09-DR-E-20901 Rev P01 – Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 9;
  6. 46738-BHE-225-XX-10-DR-E-11001 Rev P01 – Electrical Services Resi Floor Electrical Services (Affordable) Level 10-25;
  7. 46738-BHE-225-XX-10-DR-E-21001 Rev P01 – Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 10-25;
  8. 46738-BHE-225-XX-26-DR-E-12601 Rev P03 – Electrical Services Resi Floor Electrical Services (Private) Level 26-41;
  9. 46738-BHE-225-XX-26-DR-E-22601 Rev P03 – Electrical Services Resi Floor Lighting and Fire Alarm (Private) Level 26-41;
  10. 46738-BHE-225-XX-42-DR-E-14201 Rev P01 – Electrical Services Resi Floor Electrical Services (Private) Level 42-45;
  11. 46738-BHE-225-XX-42-DR-E-24201 Rev P01 – Electrical Services Resi Floor Lighting and Fire Alarm (Private) Level 42-45;
  12. 46738-BHE-225-XX-53-DR-E-15301 Rev P02 – Electrical Services Level 46;
  13. 46738-BHE-225-XX-53-DR-E-25301 Rev P01 – Electrical Services Resi Floor Lighting and Level 46;
  14. 46738-BHE-225-XX-54-DR-E-15401 Rev P02 – Electrical Services Level 47;
  15. 46738-BHE-225-XX-54-DR-E-25401 Rev P02 – Electrical Services Lighting and Fire Alarm Level 47;
  16. 46738-BHE-225-XX-55-DR-E-15501 Rev P02 – Electrical Services Level 48;

17. 46738-BHE-225-XX-55-DR-E-25501 Rev P02 – Electrical Services Lighting and Fire Alarm Level 48;
18. 46738-BHE-225-XX-RF-DR-E-15601 Rev P03 – Electrical Services Level Roof;
19. 46738-BHE-225-XX-RF-DR-E-25601 Rev P02 – Electrical Services Lighting and Fire Alarm Level Roof;
20. 46738-BHE-225-XX-XX-DR-E-00001 Rev P03 – Electrical Services Electrical Symbols Legend;
21. 46738-BHE-225-XX-B2-DR-E-19801 Rev P03 – Electrical Services Level B2;
22. 46738-BHE-225-XX-B2-DR-E-29801 Rev P03 – Electrical Services Lighting and Fire Alarm Level B2;
23. 46738-BHE-225-XX-B1-DR-E-19901 Rev P03 – Electrical Services Level B1;
24. 46738-BHE-225-XX-B1-DR-E-29901 Rev P03 – Electrical Services Lighting and Fire Alarm Level B1;
25. 46738-BHE-225-XX-GF-DR-E-10001 Rev P02 – Electrical Services Level GF;
26. 46738-BHE-225-XX-GF-DR-E-20001 Rev P02 – Electrical Services Lighting and Fire Alarm Level GF;
27. 46738-BHE-225-XX-01-DR-E-10101 Rev P02 – Electrical Services Level 01;
28. 46738-BHE-225-XX-01-DR-E-20101 Rev P02 – Electrical Services Lighting and Fire Alarm Level 01;
29. 46738-BHE-225-XX-02-DR-E-10201 Rev P02 – Electrical Services Level 02;
30. 46738-BHE-225-XX-02-DR-E-20201 Rev P02 – Electrical Services Lighting and Fire Alarm Level 02;
31. 46738-BHE-225-XX-03-DR-E-10301 Rev P03 Electrical Services Resi Floor Electrical Services (Affordable) Level 3-5;
32. 46738-BHE-225-XX-03-DR-E-20301 Rev P03 Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 3-5;
33. 46738-BHE-225-XX-06-DR-E-10601 Rev P01 Electrical Services Resi Floor Electrical Services (Affordable) Level 6-8;
34. 46738-BHE-225-XX-06-DR-E-20601 Rev P01 Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 6-8.

Prior to commencement of the fit-out works on the 42nd floor of the development the developer shall submit to the Local Planning Authority any required updates to the plans and specifications referenced above and plans and specifications for floors 49 to 55.

*Reason: To ensure that Secured by Design principles are implemented into the development in accordance with LP policy D11 and THLP policy D.DH2.*

16. The development hereby permitted shall be carried out in accordance with the approved Sustainable Urban Drainage Scheme, including ongoing maintenance provisions, LPA Ref. PA/21/02520; cover Letter dated 18 November 2021 and SUDS Strategy Rev. 2 prepared by Walsh dated 12th November 2021. The approved SUDS scheme shall be maintained in operational condition for the lifetime of the development.

*Reason: To minimise the risk of flooding, to protect water quality and in the interest of sustainability accordance with THLP policy D.ES5.*

17. The development hereby permitted shall be carried out in accordance with the approved Water Supply Impact Study LPA Ref. PA/20/02642; Water Consumption Report prepared by Buro Happold, 0046738-BHE-XX-XX-RP-P-0001 Rev P01 Dated 24th November 2020, and Clean Water Capacity Report Dated 3rd December 2020 Ref: DS6078026.

*Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand, in accordance with LP policy SI 5 and THLP policy D.ES6..*

18. Prior to the commencement of relevant works a Scheme of Highway Improvement Works necessary to serve this development shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the completion of the approved works.

*Reason: In the interests of highway and pedestrian safety and to preserve the amenity of the area in accordance with the requirements of THLP policies D.DH8, STR1, D.TR2 and D.TR4.*

19. a. The 4 wheelchair accessible car parking spaces shown on the approved drawings shall be provided prior to the first occupation of the development and shall be retained for the lifetime of the development.

b. No fewer than 1 car parking space shall be provided with an electric vehicle charging point. Passive provision for future provision of an electric charging point shall be made for a further 1 car parking space. The charging points as well as passive provision shall be in place prior to the first occupation of the development and retained for its lifetime.

c. The development shall not be occupied until a Parking Management Strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall govern the allocation of car parking spaces, including the wheelchair accessible spaces for the lifetime of the development and include provisions prioritising provision of car parking to the disabled and families.

d. At no time shall any other external areas of the development save for those explicitly identified on the approved drawings be made available for parking of motor vehicles other than to facilitate essential maintenance works.

*Reason: To promote sustainable transport by reducing the need for car travel and to ensure the provision of adequate inclusive parking facilities in accordance with LP policies T2 and T6 and THLP policy D.TR3.*

20. No fewer than 715 cycle parking spaces (of which no fewer than 14 shall be provided as Sheffield stands within the public realm, no fewer than 690 shall be provided as double-stacked bike racks within the basement, and no fewer than 11 shall be provided as dedicated storage units on levels 13, 14 and 16) shall be provided prior to the first occupation of the development and thereafter maintained in operational condition and made available to the occupiers of the development for the lifetime of the development. The cycle access lifts shown on the approved drawings shall be provided prior to the first occupation of the development and thereafter maintained in operational condition for the lifetime of the development.

*Reason: To ensure the provision of adequate cycle parking facilities in accordance with the requirements of LP policy T5 and THLP policy D.TR3.*

21. The development shall not be occupied until a Delivery and Servicing Plan and a Waste Management Plan have been implemented and are in operation in accordance with details which have been submitted to and approved in writing by the Local Planning

Authority. The Delivery and Servicing Plan and the Waste Management Plan shall remain in force for the lifetime of the development.

The delivery, servicing, waste storage and waste collection facilities shown on approved drawings shall be provided prior to the first occupation of the development and thereafter maintained in an operational condition and made available to the occupiers of the building for the lifetime of the development.

*Reason: To ensure adequate provision for the storage of refuse in accordance with THLP policy D.MW3, and to ensure adequate delivery and servicing arrangements and to minimise the development's impacts on the safety and capacity of the road network, in accordance with THLP policies D.DH8, S.TR1, D.TR2 and D.TR4.*

22. All of the approved residential units shall be constructed to ensure that:

- i. internal ambient noise levels do not exceed 35dB LAeq,16 hour, between hours 07:00 - 23:00 and within bedrooms do not exceed 30 dB LAeq, 8 hour between the hours of 2300 - 0700.
- ii. exposure to vibration is no higher than of "low probability of adverse comment" in accordance with BS6472 'Evaluation of Human Exposure to Vibration in Buildings'; and
- iii. at any junction between residential and non-residential uses, the internal noise insulation level is no less than 60 dB DnT,w + Ctr.

A post completion verification report including acoustic test results and confirming that the above minimum standards have been achieved shall be submitted to the Local Planning Authority for their written approval prior to the expiry of the period of 3 months from first occupation of no more than 80% of the residential units within the development.

*Reason: To ensure that the occupiers and users of the proposed development do not suffer a loss of amenity by reason of excess noise from environmental and transportation sources in accordance with THLP policies D.DH8 and D.ES9.*

23. a. Any mechanical plant and equipment within the development shall be designed and maintained for the lifetime of the development so as not to exceed a level of 10dB below the lowest measured background noise level.

b. A post completion verification report including acoustic test results and confirming that the above maximum noise standards have been complied with shall be submitted to the Local Planning Authority for its written approval prior to the expiry of the period of 3 months from first occupation or the occupation or no more than 80% of the residential units within the development.

*Reason: To ensure that the development does not result in noise disturbance to neighbouring residents in accordance with LP policy D14 of the London Plan and THLP policies D.DH8 and D.ES9.*

24. a. Development shall be carried out in accordance with the Sustainability and Energy Statement, April 2021, 046738-BHE-225-XX-RP-EN-0002 Rev. P05. The energy efficiency and sustainability measures set out therein shall be completed prior to the first occupation of the development and retained for its lifetime.

b. The development shall achieve development plan policy compliance in regulated carbon dioxide emission reductions against the baseline of Target Emissions Rate of Part L of Building Regulations (2013).

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

d. The development shall not be occupied until a post completion verification report has been submitted to and approved in writing by the Local Planning Authority to confirm that the above minimum standards have been achieved and that all of the approved energy efficiency and sustainability measures have been implemented.

*Reason: To ensure a reduction of carbon dioxide emissions and the highest levels of sustainable design and construction in accordance with LP policy SI and THLP policies D.ES6 and D.ES7.*

25. a. All of the approved residential units shall be constructed in accordance with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable' save for 36 one-bedroom private units and 5 one-bedroom intermediate units which shall comply with the optional requirement M4(3)(2)(a) 'wheelchair adaptable' and 8 two-bedroom affordable rented units which shall comply with the optional requirement M4(3)(2)(b) 'wheelchair accessible'.

b. Any lifts shown on the approved drawings shall be installed and in an operational condition prior to the first occupation of the relevant residential access cores. The lifts shall be retained and maintained in an operational condition for the lifetime of the development.

*Reason: To ensure adequate provision of accessible and adaptable dwellings & wheelchair accessible and wheelchair adaptable dwellings and that adequate step-free access is provided in accordance with policy D.H3 of the Tower Hamlets Local Plan 2031.*

26. The non-residential uses hereby permitted shall be closed for business and not be open to customers and members of the public outside of the hours of 0700 – 2300 Mondays to Saturdays and 0800 – 2200 on Sundays and Bank Holidays.

*Reason: To safeguard the amenity of local residents and the area generally in accordance with THLP policy D.DH8.*

27. No hot food preparation shall take place within any of the non-residential uses hereby permitted until all relevant kitchen and hot food preparation areas have first been provided with air extraction and filtration systems designed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The details shall include extraction hoods, internal fans, flexile couplings, three-stage filtration (grease filters, pre-filters and activated carbon filters), height of extract duct discharge and anti-vibration mounting. The air extraction system shall be retained and maintained for the lifetime of the use in accordance with the approved details.

*Reason: To manage and prevent further deterioration of existing low quality air across London in accordance with THLP policy D.ES2.*

## **Schedules of drawings and documents referred to in condition 2**

### **Schedule of Drawings**

Existing Site & Location Plan, Drawing No: 18942-DDU-225-00GL-DR-A-00000 P3  
Proposed Site & Location Plan, Drawing No: 18942-DDU-225-00GL-DR-A-00001 P5  
Proposed Basement Level B1, Drawing No: 18942-DDU-225-00B1-DR-A-83101 P7  
Proposed Basement Level B2, Drawing No: 18942-DDU-225-00B2-DR-A-83100 P4  
Proposed Ground Floor Plan, Drawing No: 18942-DDU-225-00GL-DR-A-83102 P10  
Proposed Level 1 Floor Plan, Drawing No: 18942-DDU-225-01-DR-A-83103 P4  
Proposed Level 2 Floor Plan, Drawing No: 18942-DDU-225-02-DR-A-83104 P4  
Proposed Level 03-05 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83105 P4  
Proposed Level 06-08 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83106 P4  
Proposed Level 9 Floor Plan, Drawing No: 18942-DDU-225-09-DR-A-83107 P4  
Proposed Level 10 Floor Plan, Drawing No: 18942-DDU-225-10-DR-A-83108 P5  
Proposed Level 11 Floor Plan, Drawing No: 18942-DDU-225-11-DR-A-83109 P4  
Proposed Level 12 Floor Plan, Drawing No: 18942-DDU-225-12-DR-A-83110 P4  
Proposed Level 13-14 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83111 P5  
Proposed Level 15 Floor Plan, Drawing No: 18942-DDU-225-15-DR-A-83112 P6  
Proposed Level 16 Floor Plan, Drawing No: 18942-DDU-225-16-DR-A-83113 P3  
Proposed Level 17-18 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83114 P4  
Proposed Level 19-37 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83115 P2  
Proposed Level 38 Floor Plan, Drawing No: 18942-DDU-225-38-DR-A-83116 P4  
Proposed Level 39 Floor Plan, Drawing No: 18942-DDU-225-39-DR-A-83117 P2  
Proposed Level 40-41 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83118 P2  
Proposed Level 42-52 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83119 P2  
Proposed Level 53 Floor Plan, Drawing No: 18942-DDU-225-53-DR-A-83120 P2  
Proposed Level 54 Floor Plan, Drawing No: 18942-DDU-225-54-DR-A-83121 P2  
Proposed Level 55 Floor Plan, Drawing No: 18942-DDU-225-55-DR-A-83122 P2  
Proposed Roof Level Floor Plan, Drawing No: 18942-DDU-225-RF-DR-A-83123 P2  
1-Bed Apartment Type 2 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83201 P4  
1-Bed Apartment Type 3 – M4(2) Wheelchair Unit, Drawing No: 18942-DDU-225-XX-DR-A-83202 P4  
1-Bed Apartment Type 4, Drawing No: 18942-DDU-225-XX-DR-A-83203 P4  
1-Bed Apartment Type 5, Drawing No: 18942-DDU-225-XX-DR-A-83204 P4  
1-Bed Apartment Type 6 – M4(3) Wheelchair Unit, Drawing No: 18942-DDU-225-XX-DR-A-83205 P4  
1-Bed Apartment Type 7, Drawing No: 18942-DDU-225-XX-DR-A-83206 P4  
1-Bed Apartment Type 8, Drawing No: 18942-DDU-225-XX-DR-A-83207 P4  
2-Bed Apartment Type 2, M(4)3 Wheelchair Unit, Drawing No: 18942-DDU-225-XX-DR-A-83208 P4  
2-Bed Apartment Type 3, Drawing No: 18942-DDU-225-XX-DR-A-83209 P4  
2-Bed Apartment Type 6, Drawing No: 18942-DDU-225-XX-DR-A-83210 P4  
3-Bed Apartment Type 2, Drawing No: 18942-DDU-225-XX-DR-A-83211 P4  
3-Bed Apartment Type 3, Drawing No: 18942-DDU-225-XX-DR-A-83212 P4  
3-Bed Apartment Type 4, Drawing No: 18942-DDU-225-XX-DR-A-83213 P4  
3-Bed Apartment Type 5, Drawing No: 18942-DDU-225-XX-DR-A-83214 P2  
3-Bed Apartment Type 6, Drawing No: 18942-DDU-225-XX-DR-A-83215 P2  
4-Bed Apartment Type 1, Drawing No: 18942-DDU-225-XX-DR-A-83216 P2  
North Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84100 P3  
South Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84101 P3



East Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84102 P3  
 West Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84103 P3  
 Section AA, Drawing No: 18942-DDU-225-XX-DR-A-85100 P3  
 Section BB, Drawing No: 18942-DDU-225-XX-DR-A-85101 P3  
 Ground Floor Below Ground Drainage Layout, Drawing No: 5298-WAL-ZZ-GF-DR-D-3000 P02  
 Services Plan Overlay – Gas Pipes Locations, Drawing No: CPL-225-Log-114 A  
 Cladding Details 1, Drawing No: 18942-DDU-225-XX-DR-A-84200 P2  
 Cladding Details 2, Drawing No: 18942-DDU-225-XX-DR-A-84201 P2  
 Cladding Details 3, Drawing No: 18942-DDU-225-XX-DR-A-84202 P1  
 Cladding Details 4, Drawing No: 18942-DDU-225-XX-DR-A-84203 P1  
 Cladding Details 5, Drawing No: 18942-DDU-225-XX-DR-A-84204 P1  
 Bathroom Type WC-10 – Affordable Housing, Drawing No: 18942-DDU-225-XX-DR-A-74060 P3  
 Shower Room Type BT-30 – Intermediate and Private Tenure, Drawing No: 18942-DDU-225-XX-DR-A-74030 P3  
 Rectangular Balcony Detail sheet 2, Drawing No: BOA-2499-XX-DR-10001 D

## **Schedule of Documents**

Accommodation Schedule, Number: 18942-DDU-225-XX-SC-A-15122, dated 06.04.22.  
 Affordable Housing Statement, May 2021  
 Approved Crane Methodology, April 2021  
 Approved Drainage Report, April 2021  
 Approved Geoarchaeological Written Scheme of Investigation, April 2021  
 Approved Phase II Site Investigation Scheme, April 2021  
 Approved Piling Method Statement (Zone A), April 2021  
 Approved Piling Method Statement (Zones B & C), April 2021  
 Approved Remediation Strategy, April 2021  
 Aviation Safeguarding Review, April 2021, P1222/R1 Rev. 02  
 Biodiversity Net Gain Assessment, 16th April 2021  
 Circular Economy Statement, 14th March 2021, Rev. P03  
 Construction Environmental Management and Logistics Plan, 18th January 2021, Report Number 3, Rev. C  
 Cycle Space Requirements  
 Design and Access Statement (inc. Landscape report), 18942-DDU-225-XX-RP-A-00100 Rev. P8, 14th April 2021  
 Environmental Statement, by Trium, 16th April 2021  
 ES Interim Review Report Response, 28th July 2021  
 ES Final Review Report Response, 31st August 2021  
 ES Non-Technical Summary, October 2021  
 Financial Viability Assessment, 16th April 2021  
 Fire Safety Statement, September 2021, 20025n04.2 Rev. P2  
 Fire statement form, 225 Marsh Wall  
 Flood Risk Assessment, 16th April 2021  
 Heritage and Townscape Statement, April 2021  
 Housing Association Support Letter, dated 12th April 2021  
 Landscape report, 30th September 2021, 18942-DDU-225-XX-RP-A-80002 Rev. P5  
 London Sustainable Drainage Proforms v2019.02  
 Planning Statement, April 2021  
 Response to GLA Stage I Report, dated 12 October 2021

Savills Letter dated 7 April 2022  
Statement of Community Involvement (SCI), April 2021  
Summary of Variations between Consented & proposed Scheme's Accommodation, by  
CPL  
Sustainability and Energy Statement, April 2021, 046738-BHE-225-XX-RP-EN-0002 Rev.  
P05  
Transport Assessment, April 2021, Report Number 1, Rev. P1  
TV & Radio Interference Assessment, Revision 00, 2016-09-21  
Urban Greening Factor, December 2020  
Verti45 Cycle stand specification  
Viability Letter by Avison Young, dated 19 November 2021  
Waste Strategy, 189420000, 2/03/2022  
Waste Management Strategy – Addendum, dated 21 June 2022  
Waste Management Strategy 001, June 2022, by WSP  
Whole Life Carbon Assessment, 16th April 2021, 046738-BHE-225-XX-RP-SP-0001 Rev.  
P01  
Wind Mitigation Measures Compliance Review – EIA Clarification Note, dated 25 November  
2021



# Report to the Secretary of State

**by John Braithwaite BSc(Arch) BArch(Hons) RIBA MRTPI**  
an Inspector appointed by the Secretary of State

**Date 2 May 2023**

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Inquiry Held on 7-10 February 2023

225 Marsh Wall, London E14 9FW

File Ref: APP/E5900/W/22/3307773

**File Ref: APP/E5900/W/22/3307773**

**225 Marsh Wall, London E14 9FW**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by Chalegrove Properties Ltd against the decision of the Council of the London Borough of Tower Hamlets.
- The application Ref PA/21/00900, dated 16 April 2021, was refused by notice dated 18 August 2022.
- The development proposed is 'erection of a ground plus 55-storey residential building (Use Class C3), ground floor flexible commercial space (Use Class E), basement cycle storage, resident amenities, public realm improvements and other associated works'.

**Summary of Recommendation: The appeal be allowed and planning permission granted subject to conditions.**

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**The Site and Surroundings**

1. The rectangular site is flat and about 0.3 hectares. It is situated on the Isle of Dogs to the north of Marsh Wall, the only east to west route in the area, and to the south of Meridian Place, a mainly housing development of up to 6 storeys that was part of the first wave of development on the Isle of Dogs in the late 20<sup>th</sup> century. To the north of Meridian Place is South Dock. At the east end of South Dock is Dollar Bay, a residential building about 115 metres high, and beyond the dock is Wood Wharf, an emerging group of tall buildings.
2. To the west of the site, beyond a small public open space is The Madison, a residential building about 187 metres high. To the south of the site, on the opposite side of Marsh Wall, is the Skylines Village Business Centre. The Council has resolved to grant planning permission for this site, subject to the completion of a legal agreement, for the erection of a group of buildings ranging from 4 to 49 storeys. There is no reason to suppose that this development, or any other at Canary Wharf that has been granted planning permission, will not be built out.
3. Marsh Wall is the south boundary of the designated Canary Wharf Tall Building Zone (CWTBZ). The CWTBZ is an area where the Council has determined that tall buildings are appropriate and within which there are many existing, under construction, and permitted but yet to be constructed tall buildings. The CWTBZ is also designated as the Canary Wharf Skyline of Strategic Importance (CWSSI). A strategic panoramic view of the CWSSI is detailed in the London View Management Framework (LVMF). This strategic view of the CWSSI was the only one referred to at the Inquiry by either main party and is from Greenwich Park to the south-east and on the opposite side of the River Thames.

**Planning Policy**

4. The Development Plan includes The London Plan (LP), adopted in March 2021, and the Tower Hamlets Local Plan (THLP), adopted in January 2020.
5. THLP policy D.DH4 'Shaping and managing views' states that development is required to positively contribute to views and skylines and that intrusive elements in the foreground, middle ground and backdrop of such views will be resisted. The policy requires development to demonstrate how it will, amongst other things, comply with the requirements of the LVMF, positively contribute to the CWSSI

formed from the silhouettes of tall building clusters around Canary Wharf, and preserve the prominence of the CWSSI in Borough designated views.

6. THLP policy D.DH6 'Tall buildings' states that developments of tall buildings must demonstrate how they will, amongst other things, be of a proportionate height and scale and take account of the character of the immediate context and of their surroundings, and enhance the character and distinctiveness of an area without adversely affecting designated townscapes and important key views.

7. LP policy D3 states, amongst other things, that all development must make the best use of land by following a design led approach that optimises the capacity of sites; optimising site capacity means ensuring that development is of the most appropriate form for the site. LP policy D9 states, at B2), that locations for tall buildings, and the appropriate heights for those buildings, should be identified by Boroughs on maps in their Development Plans. LP policy D9 also sets out, at C, criteria to be considered to address the impact of development proposals.

### **Planning History**

8. Planning permission was granted, on appeal in October 2018 (Appeal Ref. APP/E5900/W/17/3190531), for the 'demolition of all existing structures and the redevelopment of the site to provide a building of ground plus 48 storeys comprising residential (Use Class C3), community floorspace (Use Class D1), and flexible retail/restaurant/community use (Use Class A1/A3/D1), basement cycle parking, resident amenities, public realm improvements and other associated works' on the appeal site. This development is currently under construction and at the time of the Inquiry the superstructure of the building had reached about 40 stories in height.

### **The Proposed Development**

9. The permitted development for the site that is currently under construction is the fallback position in the event that the appeal is dismissed. The proposed development is the same as the permitted development in all respects other than with regard to its number of storeys, 55 above the ground floor rather than 48, and changes to the ground floor layout, cycle storage, residential amenities and public realm improvements, which are all uncontentious. The Council has not raised any concerns, including any related to the significance of heritage assets, other than those relating to the height and scale of the proposed development in its townscape setting.

### **The Case for the London Borough of Tower Hamlets**

#### **Introduction**

10. The main issue for determination is a narrow one. It is the effect of the proposed development, by reason of its height (and scale), on the character and distinctiveness of the area, with particular regard to the CWTBZ and the CWSSI. Simply because the issue is a narrow one, does not mean it is not an important one. There is only one designated skyline of strategic importance. Its deep importance to the London Borough of Tower Hamlets is reflected in the THLP. This site sits within it and the proposals would materially alter it. They would alter the as-permitted relationship between nearby tall buildings of townscape significance, notably The Madison and Dollar Bay.

11. The question is whether the change brought by the proposals would cause townscape harm, and if so whether that harm outweighs the acknowledged benefits, applying the statutory test. The answer to those questions is yes, and yes.

12. There is a great measure of agreement between the professional witnesses who have given evidence at the inquiry. There are also some stark differences, but the agreements provide the strongest possible platform for the Council's case.

Development plan policy: key policies and their significance (overview)

13. It is common ground that there are three key development plan policies: LP policy D9 and THLP policies D.DH4 and D.DH6. The latter two policies reflect a local plan-led approach to tall buildings and the Canary Wharf townscape and skyline, which is very much what the London Plan 2021 seeks as a matter of principle. They are founded on an evidence base, the Tall Buildings Study 2018 which the Examining Inspector found "proportionate and robust", and to which policy D.DH6(2) expressly requires regard be had when, in particular, applying the TBZ "principles" set out in the policy.

14. There is no dispute that the three key policies reflect good townscape practice – including the parts that specifically set policy for this particular spatial area: the designation of the CWSSI in policy D.DH4, the policy protection of the CWSSI in policies D.DH4/D.DH6 and the CWTBZ and MIDTBZ principles in policy D.DH6.

15. So the agreement that the policies reflect good townscape practice is not merely about those parts that set out general principles that apply to tall buildings anywhere in London (LP policy D9) or anywhere in Tower Hamlets (THLP policy D.DH6(1)(a)), but also the well-established proportionality principle and the rest of policy D.DH6(1) that follows at (b)-(l).

16. It follows that when the Inspector and the Secretary of State are considering what is an acceptable/unacceptable townscape result here, for this site, that the consideration is not done from a blank canvas starting point without map or compass as to what is an acceptable/unacceptable townscape here, in this spatial area. Rather, there is an area-specific statement of acceptable/unacceptable townscape in THLP policies D.DH4 and D.DH6.

17. Mr Carter's proof contained a great deal of evidence to the effect that policy D.DH6 should be treated with "caution" due to "conflict" with LP policy D9B, specifically because policy D.DH6 does not specify heights in the tall building zones. Respectfully, that reflects a misunderstanding of the statutory test set by s.38(5) of the PCPA 2004 concerning conflict – this statutory word ("conflict") means what it says.

18. The position here is not a statutory conflict: the THLP has gone a long way to meeting the requirements of LP policy D9B, by identifying tall building zones through an evidence-based approach and designating them in the plan, but has not taken the final step of specifying heights (which is not to trivialise that step, in any way). Crucially, the omission does not mean that policy D.DH6 should be disregarded and tall building decisions in Tower Hamlets taken solely on the basis of LP policy D9. Of course, to do otherwise, and follow the "conflict" logic, would remove the CWTBZ. Rather, THLP policy D.DH6 should be applied in full, including its TBZ "principles". The debate is actually arid because of Dr Miele's acceptance that the policies represent good townscape practice.

19. Equally, LP policy D9 is relevant and most recent, and is to be applied to the proposals. As Mr Carter agreed, and in line with answers given by others, the position is clear. If the Appeal Scheme conflicts with the policies, that will be because it causes townscape harm (and put through the other end of the telescope, if it causes townscape harm it will conflict with the policies).

Good townscape practice and townscape context

20. It is important to trace quite how far the extent of agreement regarding good townscape practice in this area, reflected in the policies, takes matters, and set it with the agreement regarding "on the ground" townscape context.

21. THLP policies D.DH4 and D.DH6 seek to promote the prominence of the main Canary Wharf tall building cluster, centred on One Canada Square, notably its central emphasis, and the CWSSI. The CWTBZ principles include that development within the zone 'will be expected to positively contribute to the skyline of strategic importance and maintain the iconic image and character of Canary Wharf as a world financial and business centre', and that 'building heights within the Canary Wharf cluster should step down from the central location at One Canada Square', whilst the MIDTBZ principles are that 'building heights in the Millwall Inner Dock cluster should significantly step down from the Canary Wharf cluster to support its central emphasis and should be subservient to it' and that 'building heights should step down from Marsh Wall and ensure that the integrity of the Canary Wharf cluster is retained on the skyline when seen from places and bridges along the River Thames across Greater London, particularly in views identified in policy D.DH4'.

22. This is reinforced by the supporting text to THLP policy D.DH6. Paragraph 8.73 states that "Within tall building zones, clusters of tall buildings may be developed. The height of tall buildings within a cluster should reflect the role and function of the cluster and normally the tallest elements should be located towards the centre of the cluster, which should mark a particular feature or location (e.g. One Canada Square, Canary Wharf). Developments involving tall buildings will be required to step down towards the edge of the tall building zone. It does not follow, however, that all buildings within a tall buildings zone will be tall in height/scale and variations in height will be encouraged to create a more dynamic skyline".

23. It is also reinforced in the Tall Buildings Study where, at p.153, it is stated that "Canary Wharf is a highly legible cluster that is visible across London both locally within Tower Hamlets itself and further afield from Greenwich Park, Alexandra Palace and along the river from Central London. It is a clear representation of the major centre and the tallest buildings should represent the heart of the financial district where the offices, station and shopping centre are located. The supporting residential areas should be secondary and therefore of a lower scale that steps away from the taller centre. The stepping down must also allow views of the taller buildings that are in the centre and this must be tested properly. Stepping down too slowly will result in the centre of the cluster becoming invisible from medium range views".

24. As to this text, it is the case, and Mr Carter agreed in cross-examination, that on a plain reading of the emphasised words, in isolation they are relevant and have an obvious textual relationship with CWTBZ principle (a). Also, given the requirements of THLP policy D.DH6(2) starting paragraph, when applying, for example, CWTBZ principle (a), the decision-maker must have regard to this obviously related, and clearly relevant, amplifying text.

25. Turning to THLP policy D.DH4, this requires development to 'demonstrate how it...(b) positively contributes to the skyline of strategic importance, forming from the silhouettes of tall building clusters around Canary Wharf (as defined on the Policies Map)'. Here, the Appellant has been keen to engage in the kind of forensic archaeology approach to interpretation the Courts have deprecated as inappropriate for a public document such as a development plan, other than where the policy wording demands it. This is not that case. In any event, the wording reflects good townscape practice.

26. The supporting text to THLP policy D.DH4(b) explains that heights in the CWSSI should 'significantly step down towards its boundaries'. The Appellant would like the entire paragraph struck (Dr Miele) or given only limited weight (Mr Carter) due to the erroneous reference to the MIDTBZ. That is wrong, even based on a forensic archaeology exercise of the Examination report; all that is required is one reads the paragraph without the erroneous words concerning the MIDTBZ.

27. Beyond what the policies/supporting text/guidance say, there are many "on the ground" agreements. It is agreed that there is an appreciable "Manhattan" style central tall building cluster north of South Dock, with its own character from a combination of (large) floorplates and height. So whilst the HTVIA lumps the area south of South Dock together with that central cluster in one "Canary Wharf character area", because both are in the CWTBZ, in fact it is common ground they are different. And there is (necessarily) a character difference between the central cluster and the CWTBZ as a whole, and the cluster and the CWTBZ are not one and the same.

28. The site sits south of South Dock, so outside the central cluster. This matters because in townscape terms the step down should be from the cluster. It is also agreed that there is a visible central emphasis to that cluster, with One Canada Square at its heart but also the very recognisable Citibank and HSBC buildings, and that there is a central emphasis to the CWSSI as a whole.

29. Dr Miele agreed he could perceive that central emphasis. The central emphasis has, the Council does not dispute, been diluted over time. But the central emphasis remains and Dr Miele agreed that as a matter of good townscape practice one should seek to maintain/support that central emphasis – and Dr Miele noted the aspiration was reflected in policy. Dr Miele did then quibble somewhat over the specific meaning of policy wording at CWTBZ principle (c) "central location" and MIDTBZ principle (a) "central emphasis", but he did not resile from the underlying townscape good practice principle that one should seek to maintain the central emphasis as a matter of good townscape practice.

30. This is not "ancient history", as was put to Mr Millar-McMeeken in cross-examination, or something that relies on out-of-date photography (as was also put). It is apparent now, and agreed, and the site is part of the CWSSI, but clearly removed from the central emphasis of the CWSSI at One Canada Square. Nor has there been any challenge in cross-examination to Mr Millar-McMeeken's point that "...whilst tall buildings are considered appropriate within the Canary Wharf and Millwall Inner Dock Tall Building Zones, the location and scale needs to be carefully mediated to ensure that the views to, and the identity of the Canary Wharf cluster is not irreparably altered and that a wall of development is not perceived from distant locations in the south creating a table-top effect".



31. There is agreement that: (a) development that contributes to the loss of central emphasis is harmful in townscape terms; and (b) insufficient step down will make such a (harmful) contribution.

32. Given all the agreement established, where the Council most-materially parts company with the Appellant so far as the assessment of the context is concerned, is that (i) the Appellant gives the townscape here only a "medium" value, and (ii) the Appellant recognises no meaningful distinction between the townscape importance of its site and that of The Madison, nor any townscape need to transition to Dollar Bay.

33. As to the "medium" valuation, which Dr Miele sought to justify on the basis the townscape is evolving, Dr Miele's position is, respectfully, wrong. As he and his own HTVIA recognise, the designated CWSSI is internationally recognised. On any reasonable application of the "valuation" tables in the HTVIA, the value must be at least "high" – as per Mr Millar-McMeeken's evidence. One has only to look at the criteria and examples/features that signify "exceptional" for "townscape" and "visual" receptors to see that.

34. As to the townscape significance of The Madison site, above the appeal site, that is unarguable. Whereas The Madison site marks the junction with and the view up Limeharbour this site does not. It was rather surprising to hear attempts to justify a townscape role for increased height at this site on the basis that Marsh Wall was once a wall. Equally, the need for a transition between the Madison and Dollar Bay is obvious and has been consistently recognised by Council Officers, by the permitted scheme architect Mr Filskow of MAKE Architects, and by the previous Inspector.

The visual change brought about by the proposals and whether that change is acceptable

35. Starting, as both townscape witnesses did, with the view from the General Wolfe statue at Greenwich Dr Miele acknowledged that the appeal scheme 'extends the height of the CWTBZ and CWSSI eastward' and 'both the proposals and The Madison appear at about the height of One Canada Square'. Then, moving east to the Greenwich Peninsula, Dr Miele agreed, as he had to, that the proposals would appear higher than the central area.

36. What emerges clearly from the agreement regarding good townscape practice here in this context, and the on-the-ground contextual agreements, is that the proposals will cause the harm the Council say by dint of Dr Miele's own acknowledgments, set out immediately above, regarding the nature of the visual change (and which change Dr Miele accepted would be material). The proposals will dilute the central emphasis and it follows that they will cause harm.

37. As the Council have said, by adding about 22m of additional height at this site, the proposals are self-evidently forcing the built form here to protrude visually in certain views, creating or contributing to a "table-top" effect of very tall built form extending eastwards, including from The Madison, and both detracting from the prominence of the Canary Wharf main cluster, and diluting the viewer's perception of its central emphasis.

38. This effect is not limited to the view from the south (though clearly that view, not least the view from the General Wolfe statue is important), but from a range of views, and in some views the extra height here does not merely seek to stretch the cluster and dilute its central emphasis but actively rival it, rearing up in (unjustified)

domination. Whereas without the proposals there is, in fact, a general, but varying, progression down from One Canada Square, in which the consented scheme sits comfortably.

39. Harm would be caused even if, for reasons not obvious, THLP policies and the Tall Buildings Study are to be read such that the whole CWTBZ is the same as the Canary Wharf main cluster. The "central emphasis" of the cluster is a matter of fact and the harmful effects of these proposals on that central emphasis apply notwithstanding an equation of the CWTBZ with the cluster. Equally, and as part and parcel of the proposals' unacceptable failure to sufficiently step down, the proposals would self-evidently but unjustifiably assert for this site and the built form on it a role/importance equal if not greater than The Madison, despite the site falling well short of the townscape significance of The Madison site. So further breaching the fundamental principle of proportionality. The proposed scheme would, similarly, fail to acceptably transition to Dollar Bay at the eastern edge of the CWBTZ.

The 2018 Decision of the previous Inspector

40. Both sides rely on this (it is plainly a material consideration), and both sides claim different things from it. Respectfully, only the Council's approach gives the Inspector's position a fair reading. The Appellant repeatedly passes over paragraph 27. That is wrong. Paragraph 27 contains 'the scheme... at about 163 m AOD, represents a clear and substantial step down in height from One Canada Square and the other buildings in the Canary Wharf major centre to the west. It would also be significantly lower than The Madison, immediately to the west, and the taller buildings at Wood Wharf to the north. Dollar Bay represents a further step down in height at the edge of Cubitt Town...'. That is the Inspector expressing clear approval of these matters, including that the Permitted Scheme would be 'significantly lower than The Madison', as a matter of good townscape practice.

41. In response, the Appellant tries to pray in aid a change in development plan policy since 2018 to explain away paragraph 27. They claim that policy has moved in its favour, because the site is now in the CWTBZ, whereas before it was on the second rung of the Tall Building Policy, and that this somehow explains away paragraph 27. In fact, what the shift in policy has done is refined and hence tightened policy for this site, by designating the CWBTZ and setting specific principles for the CWBTZ that are far more prescriptive than under the old policy. But in any event, the change in policy debate misses the point. The Inspector was expressing a townscape judgment, based on fundamental townscape principles, that holds good today.

The 2017 MAKE Design and Access Statement and the 2018 evidence of Mr Filskow

42. Why do the 2017 MAKE Design and Access Statement (DAS) and the 2018 proof of evidence of Mr Filskow for the 2018 inquiry matter in this inquiry? Because there was an experienced well-respected practice and individual professional saying in clear terms that the reduction in height to the present height of the permitted scheme was needed to achieve the transition from The Madison to Dollar Bay. By way of example, from the DAS, a "...15% reduction in tower height allows a smoother transition between the proposal and neighbouring developments...", "The section below illustrates that the proposed scheme provides a suitable transition between the Canary Wharf tall building cluster via South Quay Plaza to the west and Dollar Bay to the east.", and "The design of the proposed scheme has evolved to achieve slender proportions from all vantage points. Combined with the overall reduced height, the

composition makes an elegant addition to the skyline". Mr Filskow's position was based on a very careful design-led contextual analysis and solid townscape principles.

43. The MAKE DAS and Mr Filskow's proof are both explicit regarding the need for the reduction in height. It is also apparent, as put to Dr Miele and effectively accepted by him in cross-examination, that Mr Filskow's 2018 proof of evidence up to the section in which he actually addresses the (former) reason for refusal is aligned with what is said in the DAS – the short point being that the MAKE DAS and those earlier sections of the Filskow Proof that all make the point about the townscape need for reduction in height were not a "response" (as Dr Miele had claimed) to the Council's refusal, but simply telling the logical analytical story of the design-led solution arrived at.

44. Dr Miele did say that one had to bear in mind Mr Filskow was writing in circumstances in which the original very different 55 storey scheme had not found favour. But there was no suggestion from Dr Miele that Mr Filskow was in any way bearing false witness – rightly so. Equally, whilst the loaded word "compromise" was used to describe the permitted scheme by the Appellant's witnesses, there is no hint whatsoever of any "compromise", in the sense of some sort of disadvantageous design response, in Mr Filskow's evidence and the design evolution that arrived at the permitted scheme. It is a rigorously design-led response to its townscape context (with no "missing" step).

Decision to add seven stories to arrive at the appeal scheme not design-led

45. It very clearly is not. It is not hyperbole to say, as the Council did in Opening, that the Appellant decided it wanted an additional 7 storeys, unsupported by anything approaching the work that went into arriving at the permitted development. That is merely an entirely fair reflection of all that we know of the design brief given to the Architects. The brief was, in terms, "add an additional 7 storeys of residential accommodation". There is no evidence at all of work done to test different height options – not in the appeal scheme DAS and not in the HTVIA. Nor did Dr Miele do so (he confirmed that he merely considered the height of the appeal scheme, nothing else).

46. What the MAKE DAS relies on are clear and well-founded principles that mean the height reduction is required to achieve an acceptable relationship with the surrounding buildings, notably The Madison and Dollar Bay. Yet those principles are simply ignored in the DAS for the appeal scheme, and so are unsurprisingly not reflected by the height/scale of the scheme. There certainly are "missing steps". They are all in the appeal scheme DAS.

47. The Council makes clear that it is not its case that if it is found that these proposals conflict with LP policy D3 as they are not design-led, but it is found that there is no townscape harm, permission should be refused. But the Council does rely on the lack of a design-led approach as entirely supportive of its case that the proposals will cause townscape harm: it is rare for happy accidents to occur in this field, and no surprise that a non-design-led decision to add 7 storeys results in townscape harm.

48. The backdrop here is that not only were the LPA's officers clear in their support for the Permitted Scheme, and not only have they been, over many years, so consistent in their rejection of the height now proposed (the July 2022 Officer's

Report is one of many clear objections, going back to the mid-2010s, and the pre-application advice the Appellant received on these Proposals was explicit in its objection to its height), but the architect of the Permitted Scheme himself presented it as the answer to this Site, including through its transition down from The Madison to Dollar Bay, and its relationship with those buildings, and the previous Inspector's reasoning in 2018 very much endorsed that LPA officer-architect consensus.

49. Hence the rather bitter irony that the Appellant, having taken on the site with the benefit of the 2018 permission, sought to try its luck (a fair description, given the design brief was simply "add 7 storeys") and add height, in clear tension with the reasoning that secured the 2018 Permission. The Appellant decided it wanted an additional 7 storeys, unsupported by anything approaching the work that went into arriving at the permitted scheme, through proposals that would not "optimise" the site, but seek to maximise it.

The position of the GLA

50. The GLA are not blessed with divine wisdom. The Council fully acknowledges that GLA officers reached a different view regarding the acceptability of the height and scale of these proposals. Respectfully, though, the Council disagrees, and is also far from convinced GLA officers correctly understood the relevant parts of the THLP policies, and what constitutes good townscape practice here, in this area, or fully grasped the "on the ground" townscape context and how the proposals would be perceived.

Precedent

51. Precedent is often raised and often dismissed. The decision maker will decide on the proposals before him, not future proposals that might follow after a grant of permission here. However, Mr Millar-McMeeken fairly observes, if these proposals are allowed, there will be obvious and unfortunate knock-on effects for the Council's ability to control heights/scales at other potential development sites, notably on eastern Marsh Wall.

National Planning Policy Framework (NPPF) and conclusion on the principal issue

52. The conflict with the key development plan policies by reason of townscape harm is, respectfully, clear. Stepping away from the development plan, NPPF paragraph 134 is explicit that development that *'fails to reflect local design policies and government guidance on design, taking into account any local design guidance and supplementary planning documents such as design guides and codes'* should "especially" be refused.

53. Both development plan policy, and considerations outside the development plan, including the NPPF, point inexorably to a conclusion that the proposal's height and scale mean they are unacceptable in townscape terms.

Benefits and the planning balance

54. There are benefits, undeniably. The Council has recognised them and appropriately weighted them in its evidence. This includes giving significant weight to the additional housing units, albeit the dwelling mix by size is not policy compliant. The Appellant may observe that relatively little time has been spent on the benefits. That is the nature of the Inquiry process. It in no way diminishes them, or the weight the Council gives to them.

55. But they are not enough to offset the harm. Of course one looks to intensify, particularly on a brownfield site such as this, but not at the expense of harm. There is a crucial difference between optimize (acceptable) and maximize (unacceptable). Moreover, the decision maker will note that, with the exception of the additional housing units, there is no physical reason that the benefits require additional height to be added to the permitted scheme.

56. Moreover, this is clearly not a case in which there might be thought some peril of the site lying vacant if the appeal is dismissed. To the contrary, the permitted scheme will simply be completed, as the Appellant has confirmed. In any event the benefits, taken at their highest, do not outweigh the townscape harm.

57. It was interesting that when given the opportunity twice to strike the balance if the Inspector finds substantial townscape harm, Mr Carter did not give an answer that permission should be granted. That was the question he had been asked to address in examination-in-chief (the words were in terms of whether “we do/don’t win”), to which he did not give an answer, but simply pointed to the benefits. When asked to clarify his position in cross-examination, again he did not take the opportunity to answer the “do we win” question, but answered again by pointing to the benefits.

58. Obviously, the planning balance is a matter for the decision maker, just as whether there is townscape harm and if so how much is a matter for the decision maker, and likewise ultimately the question of the benefits. But we can take it from Mr Carter’s non-answer to the question that he cannot rule out townscape harm sufficient to offset the benefits, albeit he struggled to see it. Rightly so, and in this case the townscape harm does outweigh the benefits.

#### Conclusion

59. The Council respectfully invites the decision maker to dismiss the appeal.

### **The Case for Chalegrove Properties Ltd**

#### Introduction

60. In summary, the case advanced will reflect the evidence and concessions made during the Inquiry. It will establish that, as a matter of judgment, the impact of the proposed building on the existing and proposed skyline of relevance (however considered) will not be a harmful one. As a direct result, planning permission should be granted.

#### Important matters of agreement framing the decision process

61. The Inspector asked both Council witnesses whether they accepted that the aims and objectives of the relevant policies at play in the present case were to ensure that the skyline context was not harmed in townscape terms by new development. Both agreed that these were the aims and objectives of the policies. The Inspector also asked whether, if this was the case, the proposal should be granted permission in the event that there was a judgment of no townscape harm in this context. Both witnesses agreed that, if there was a finding of no townscape harm in this context, then, there was nothing in the detail of the policies which would otherwise justify refusal. Mr Burton, for the Council, did not disagree or suggest that his witnesses were incorrect in their answers to the Inquiry. The Appellant’s two principal



witnesses also adopted these answers and agreed that this was an appropriate approach to determination of the appeal.

62. The concessions made by the Council witnesses were clearly correctly made given the agreed underlying purpose of the policies relevant to tall buildings and the strategic skyline. What they also mean as a matter of the formally stated position of the Council, is that the decision-maker does not need to rule on the many and detailed, labyrinthine submissions as to the detail of the Development Plan policies, from either party. This is reflected by the Inspector's indication that he would be unlikely to be assisted by debate as to the more esoteric details of the policy matrix such as, for example, whether there were clusters within clusters.

63. In these circumstances, the Appellant restricts themselves to noting that the very fact that the Council felt the need to construct such a complex and internally inconsistent case reflects the fact that a simple analysis of whether there was truly harm to the skyline from the small addition to that proposed was unlikely to "do the job". For these reasons, tempting though it is, it is unnecessary to engage with the Council's wilder and stretched-to-destruction assertions as to the detail of the policy matrix. Such approaches from the Council are both incorrect and also irrelevant. Thus, in summary, it is agreed by all relevant witnesses that if the proposal causes no townscape harm in context then self-evidently the main aims and objectives of the policies will have been met and there will be no policy or other reason to refuse permission.

Does the proposal cause townscape harm in context ?

64. First, the site views and the experience of the cluster with the human eye.

- These matters are placed first for a reason. There is no substitute for the capability of the human eye aided by experience in expert judgments such as this.
- The evidence heard during the Inquiry or the submissions contained in this closing cannot come close to replicating the evidential value of these matters in the determination of the judgment as to the existence of harm. We are confident that exposure to the real fresh air world will result in a rational and reasonable judgment.

65. Second, townscape assessment is not a wholly relativistic and subjective matter. There are some rules and areas of good practice to guide decision makers. There was indeed much common ground between the parties as to what these matters might include when assessing impact upon a strategic townscape. Dr Miele sought to encapsulate the main markers of quality and/or elements of assessment at the beginning of his examination-in-chief. Mr Miller-McMeeken also agreed the main components of an assessment. Thus:

- Appropriate variety across a townscape cluster: a cluster should be seen as a dynamic and interesting thing with varieties of height, surface treatment, materiality and how each building reaches the sky. There is no requirement for linear regularity or mathematical precision or to avoid some buildings in a cluster being of the same height as part of an appropriately experienced cluster.
- The existence of gaps is another element of dynamism. The nature and extent of the gaps are important. There will be good gaps and bad gaps: a judgment is needed but in general gaps aid an understanding of a cluster particularly at its higher levels and allow the depth of a cluster to be read and understood also.

- Appropriate layering of buildings within a cluster/zone is also important and allows depth of field to be understood and also for the cluster to be appreciated from different vantage points and in different ways.
- Legibility: the immediate townscape role of a building in a cluster is not usually immediately readable from longer distances. But its land use and the consequent shape and disposition of buildings within a cluster should be seen and be understandable.
- Design quality: last but not least in general terms, the impact of a building within a cluster is indivisible from its design quality. Even at a distance the quality of the architectural parti, its materiality and overall story will or should be readable. Closer to, these matters remain at least as important.
- In this particular case, in townscape and policy terms, there are benefits of buildings falling away in height from one Canada Square and stepping down towards the edge of the CWTBZ. When judging the impact of the proposal however it is important to judge it in terms of the existing and permitted cluster and not on the cluster as it was in 2011/12. The impact of any proposal on any cluster can only properly be assessed against that which exists or has been permitted.

66. In this case, the decision maker has the benefit of the evidence of Dr Miele who has probably more experience in judging the impact of proposals on the Canary Wharf cluster than any other professional. A brief summary of his evidence is set out here:



- The view above is from Greenwich Park World Heritage Site (WHS) and therefore from outside the Borough. It is a protected LVMF view with its own specific guidance in relation to development in the background of the view. It also allows an appreciation of the CWSSI. Dr Miele began by reminding the Inquiry that this view represented the best view of the WHS and that all of the picture represented the setting of the designated heritage asset. The formal guidance for this view identifies

that the composition would benefit from further incremental consolidation of the clusters of tall buildings.

- The findings of the previous inspector in relation to this issue remain apposite: "...the proposed tower at 225 Marsh Wall would be seen well to the east of the axis view and would have no impact on the ability to appreciate it. Taken in the context of permitted and emerging buildings, particularly at Wood Wharf, the proposal would make a relatively modest addition to the cluster of tall buildings. It would infill a small gap, add variety and interest to the skyline and contribute to the layering and consolidation of the cluster. ...in this way the building would make a positive contribution to the panorama as a whole."
- The entirety of this finding could be read across to the appeal scheme on the same site albeit from this distance at a marginally taller height; marginal particularly having regard to the scale of the other elements of the townscape and in the wider cluster.
- Indeed, the addition of Skylines to the "debate" and the creation of a tall building zone further south of Marsh Wall adds another argument for height at this location since height is meant to fall in the MIDTBZ from Marsh Wall within the CWTBZ and CWSSI.
- The permitted scheme sits below Skylines in the MIDTBZ and to the west of the taller Wood wharf development which sits closer to the edge of the eastern boundary of the cluster. Granting the permission would reinforce the new spatial hierarchy for the CWSSI set by the principles table in THLP policy D.DH6.
- In addition, Dr Miele pointed to the variety of heights and shapes across the top of the building panorama with the new proposal in place, to the inevitable gap produced by the public open space between the Madison and 225 Marsh Wall and to the way that even from this distance the quality of the parti, particularly in terms of its cruciform shape and consequent detailing will be read. The additional height would probably not be appreciated very significantly from here but the building would be undoubtedly more elegant in proportionate terms.
- Finally, in this statutorily protected view, which is a setting of one of London's WHSs, the absence of any complaint whatsoever that the setting of a designated asset has been harmed is deafening. If there was such an unbalancing as the Council suggest, it is inconceivable that this would not be seen as harmful to the setting of the WHS also. One of the 9 outstanding universal values of the WHS is "Architecture". A disturbing distraction in this cluster would (and has often times) resulted in a heritage objection. There is no objection from Heritage England nor any WHS bodies nor from Royal Borough of Greenwich who are the guardians of this view.

67. Third, in nearer views from the south the proposal causes no townscape harm. It forms a neat quarter of clearly residential towers on the eastern side of the Island. It does not contribute at all to a diminution of the role of 1 Canada Square from this location. That view does not now in reality exist and cannot be re-invented (see image). The grant of planning permission for residential Towers at Wood Wharf was granted in 2014 and refined and extended from 2014-2018. In this view if the difference between the consented and proposed is appreciated at all the additional elegance is to be preferred. Certainly, there is no harm to the CWSSI. The relationship to the edge of the CWTBZ steps down comfortably also.

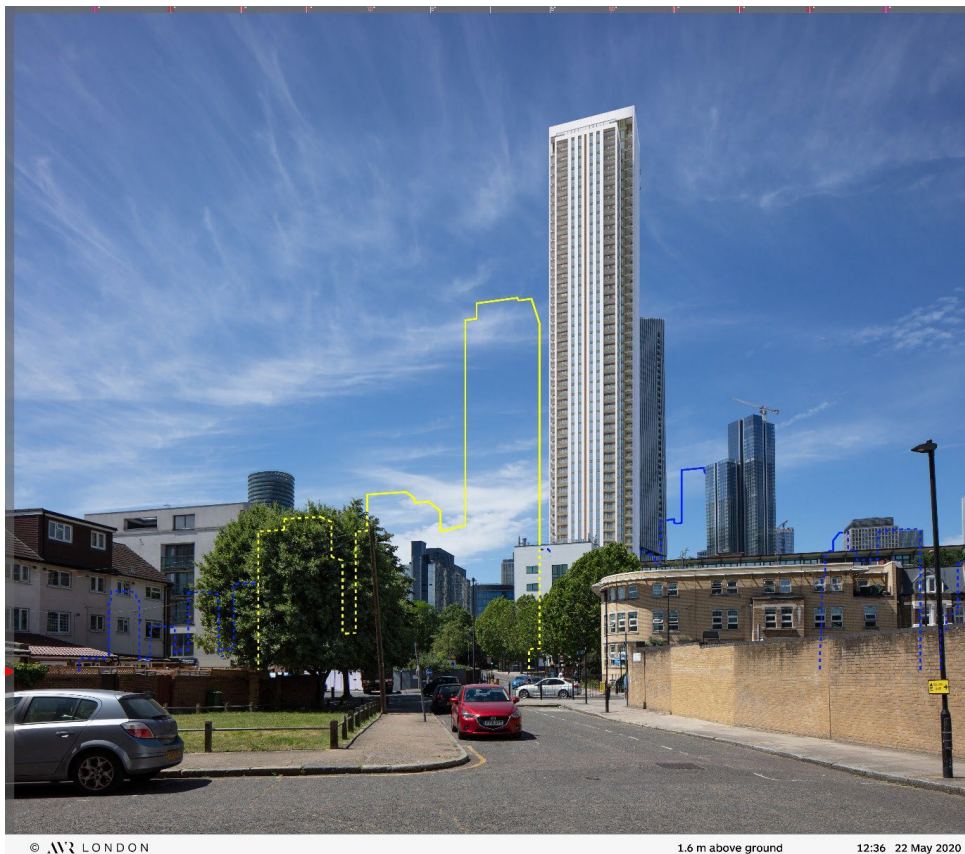


68. From Olympia Way near to the O2 Arena (see view below), the linearity of the water body is addressed by the Baltimore Wharf building in



terms of its height colouration and form. The Madison and 225 Marsh Wall read as part of a grouping of residential buildings off to the right. From this location the relationship with 1 Canada Square cannot be seen as central or indeed important. In a tall building zone it is impossible to retain all views even of 1 Canada Square by definition. As Dr Miele indicated, there is no harm to this element of the townscape from the proposal which will be seen, read and understood as a building of quality in a zone specifically designated for this purpose.

69. The relationship with the residential tower at Dollar Bay has been raised by the Council. The relationship with Dollar Bay, as the building which effectively marks the south-eastern edge of the CWTBZ, can be seen and understood in the view below. That relationship is significantly influenced by the addition of the taller Wood Wharf Buildings further north. Closer too, the relationship is also not a harmful one. Of course, the matter is a judgmental one. But it's also a bit of a benchmarking exercise. That Mr Miller-McMeeken finds harm here is strange and telling.



70. The image below is from Montgomery Square on the north side of South Dock and shows The Madison, 225 Marsh Wall and Dollar Bay. Dr Miele suggested that to most eyes the extra height of the proposed building would be a wholly beneficial one which shouldn't trouble the decision maker for over long. The relationship between the three buildings seen from this and similar locations is surely wholly beneficial. From this distance the marking of the open space by two buildings of quality becomes much more apparent and beneficial. As the previous Inspector noted "...a built development of this quality, seen in conjunction with The Madison Tower 'bookending' a public park would create an identifiably distinct place, making a major contribution to the quality and character of the Marsh Wall street scene". In his conclusions he specifically noted that the then proposal "...marked a significant new place...". He also stated that a "...new sense of place would be created at a location identified as part of an important future pedestrian route". None of this changes with the addition of the additional height. The legibility of the scheme would be most apparent in the medium views of the proposal such as this where wayfinding is important.





71. In closer views, from Marsh Wall, both buildings, The Madison and the proposed building, would remain important bookmarks but the extra height would simply not register as such. In these close views pedestrians would simply register a tall building.



72. There are two tall building sites identified within the Marsh Wall East allocation further to the east of the site which will allow the transition to the edge of the zone to be controlled by the Council. There is about 200 m between the appeal site and the nearest part of Dollar Bay. The suggestion that the Council will have its hands tied in relation to the determination of these very different and separate schemes if planning permission is granted here is of course hopeless. If this proposal is granted permission it will be because it is the correct approach for this specific site. The Council will apply its judgment to the acceptability of other proposals on other sites and will not be fettered at all by a grant of planning permission on this site.

73. Overall, Dr Miele finds no harm to the relevant elements of the townscape or skyline and he was able to explain why simply and cogently. He saw townscape benefit and an opportunity to reinforce the spatial hierarchy.

74. Fourth, the views of the Greater London Authority (GLA) are also relevant. Such views are not binding on anyone. But the requirement to engage with the GLA on such matters is there for a reason and where matters go to appeal, the stage one and stage two reports are written on the basis that they represent and will be reported as the strategic authority's opinion to the Inquiry.

75. The views of the strategic authority on the strategic skyline of importance are particularly relevant since almost all of the strategic views of the Canary Wharf cluster are gained from outside of Tower Hamlets and are strategic and cross-boundary in nature as well as in name. The views of the GLA are unsurprisingly consistent both as to content, analysis and conclusion as Dr Miele. The GLA doesn't have to engage in the "cluster within a cluster enigma" in order to conclude there is no harm to the CWSSI, it simply concludes that there is no harm to the skyline.

76. Thus, the Mayor is clear that "...when viewed from the General Wolfe Statue, the proposal would exist as an integrated component of the Canary Wharf cluster contributing to the established layered townscape background to the WHS". Accordingly, the fundamental components of the setting to the WHS in his view would be preserved and the significance and Outstanding Universal Value of the WHS would be conserved.

#### Conclusion

77. The previous Inspector deliberately and carefully found no harmful effect of the proposal. On proper analysis the relatively small changes to the scheme should not alter that finding. Indeed, if anything the case for the proposal is now stronger. The development plan as a whole seeks intensification of existing uses at appropriate locations. Furthermore, the Canary Wharf cluster has grown and in policy terms the site now sits in a TBZ and immediately next to another where a 167m building has been found acceptable by the local planning authority.

#### Conditions and Obligations

78. The Council and the Appellant have agreed conditions that would be imposed if planning permission was to be granted. They have been amended, in the interests of clarity, precision and consistency, but they meet the tests set out in the National Planning Practice Guidance (NPPG). The conditions and reasons for them are given in the schedule attached to this report.

79. To the east of the site is Sovereign House, which is a data centre that operates for 24 hours a day on every day of the year. On the roof of the building are air extraction units that emit noise. The operators of the data centre are concerned

that the noise, which is at its greatest during summer months, would adversely affect the amenities of residents of apartments in the proposed building. They have, through their Agents, suggested a condition that would require a noise survey to be undertaken, which would inform whether additional mitigation measures are required in some apartments on the eastern elevation of the proposed building. Such a condition was not imposed on the planning permission granted for the building currently under construction. A condition that was imposed, and would be imposed on a permission for the proposed building, requires all of the approved residential units to be constructed to achieve ambient noise levels recommended in British Standards. These same standards are referred to in the suggested condition and there is therefore no need to impose the suggested condition in addition to that which would be imposed.

80. A signed and dated Legal Agreement, made pursuant to Section 106 of the Town and Country Planning Act 1990, was submitted shortly after the close of the Inquiry. The obligations of the Agreement are all related to requirements of development plan policies and are all necessary to make the development acceptable in planning terms. They are all, furthermore, directly related to the development, are fairly and reasonably related in scale and kind to the development, and are in place to mitigate the effects of the development. The Legal Agreement therefore complies with the tests set out in the National Planning Practice Guidance and with Regulation 122 of the Community Infrastructure Levy Regulations 2010.

81. The Legal Agreement would secure the affordable housing element of the scheme and provides for a late stage review of that element, would secure 10% of the affordable housing units as being wheelchair accessible, would secure the approval and implementation of a Travel Plan, would secure a car free development through the withdrawal of car permit rights for residents, would seek compliance with the Employment, Training and Construction Strategy, would secure the provision of the Public Square to the west of the site, would secure compliance with the 'Be Seen' post-construction monitoring requirement of LP policy SI 2, and would secure connection of the development to the District Heating Network.



## Conclusions

*Numbers in square brackets at the end of each paragraph refer to earlier paragraphs in this Report.*

82. The main issue is the effect of the proposed development on the character and distinctiveness of the CWTBZ and the CWSSI.

83. The photographs in the LVMF that illustrate the panoramic view from Greenwich Park have the historic buildings of Greenwich Palace in the foreground and the CWSSI in the background. The LVMF was published in 2012 and at that time, as clearly shown in the photographs, One Canada Square, with its iconic pyramidal roof, was at the heart of a small group of tall buildings to the north of South Dock. One Canada Square was then the tallest building at Canary Wharf, at 235 metres, and in 2012 the other tall buildings diminished in height to the west and east. One Canada Square remains the tallest building in Canary Wharf but many other tall buildings have been built in the area, mainly to the north of South Dock and between the River Thames to the east and west. [21-30, 66]

84. The tallest of the four buildings that comprise Landmark Pinnacle at the west end of the CWSSI is close in height to One Canada Square. At the east end of the CWSSI is Wood Wharf, a group of tall buildings some of which have been completed and others that are under construction. The tallest of these buildings, completed in 2019, is about 210 metres high. The tall buildings of Landmark Pinnacle and Wood Wharf 'book-end' the CWSSI in the panoramic view from Greenwich Park. In between the book-ends there are many tall buildings of varying heights, mostly to the north of South Dock but now also built on sites, such as the appeal site, between the dock and Marsh Wall. [31-34, 67-72]

85. One of the developments to the south of the dock is South Quay Plaza, which was granted planning permission, by the Council, in March 2015. The tallest building in this development is about 220 metres high. In the panoramic view from Greenwich Park this tall building, given that it is front of One Canada Square, partly obscures the pyramidal roof of the building behind. In the view One Canada Square, for this reason and given the significant number of other tall buildings in the area, is no longer the centrepiece of the CWSSI. The appeal site is to the east of South Quay Plaza, about halfway between this development and Wood Wharf. The proposed building, at a height of about 185 metres, would be just another tall building in the CWSSI and would not, in the panoramic view from Greenwich Park, be intrusive or have any adverse effect on the distinctiveness of the area. [73-74]

86. THLP policy D.DH4 refers to 'tall building clusters around Canary Wharf' whereas THLP policy D.DH6, in its design principles, refers to 'the Canary Wharf Cluster'. Whether Canary Wharf is one cluster, the Appellant's view, or several clusters, the Council's view, was debated at the Inquiry. This matter is irrelevant to consideration of whether the proposed building on the appeal site would cause harm or not. The design principles of policy D.DH6 are relevant and they are specific to the CWTBZ and to the Millwall Inner Dock Tall Building Zone (MIDTBZ), amongst others. The MIDTBZ is to the south of, and adjoins, the CWTBZ. A design principle of the CWTBZ is that building heights should step down from the central location of One Canada Square and a design principle of the MIDTBZ is that building heights should significantly step down from the Canary Wharf cluster. [13-19, 61-63]

87. South Quay Plaza, though it was granted planning permission before the THLP was adopted, does not comply with the design principle for the CWTBZ; it is only slightly lower than One Canada Square. The proposed development would be a stepdown from One Canada Square and would comply with the design principle. The tallest building of the Skyline development would be about 167 metres high and would therefore be about the same height as the building currently under construction on the appeal site. If built out to this height there would be no significant step down from the Canary Wharf cluster to that of Millwall Inner Dock and, in this location, the MIDTBZ would not be subservient to the CWTBZ. The proposed development would redress this matter and there would be a significant step down to the tallest building of the Skyline development from The Madison and from the proposed tall building on the appeal site. [35-37, 75-76]

88. The tall building of the Skyline development would be about half-way between The Madison and the proposed tall building on the appeal site, on the opposite side of Marsh Wall. Between the two buildings on the north side of Marsh Wall is an area of public open space and the three buildings would overlook this space. The three buildings, given their relationship to the open space, would be a group in the views west and east along Marsh Wall. The additional height of the building on the appeal site would assist in maintaining the subservience of the MIDTBZ to the CWTBZ in these important views, and in the view north along Limeharbour towards its junction with Marsh Wall, and indeed, from Greenwich Peninsular on the opposite bank of the river near to the O2 Arena. [38, 66]

89. In the view west from Greenwich Peninsular, One Canada Square will be obscured by a permitted tall building at Wood Wharf, once it is built out. The CWTBZ from this vantage point is narrow and the building currently under construction on the appeal site will be a prominent feature at the left-hand side of the view. The additional height of the proposed building would not harmfully increase its prominence and it would step up from the tall building of the Skyline development. There is a dockside walkway on the north side of South Dock and from all points along this walkway the proposed building would have a better relationship to The Madison and to Dollar Bay than the building currently under construction. The visual relationship between these three buildings would, in fact, be enhanced by the additional height of the proposed building. [39, 68-69]

90. In no view towards the appeal site would the proposed building have an adverse effect on the character and distinctiveness of the CWTBZ or the CWSSI. The Council conceded at the Inquiry that if this was so concluded, there would be no conflict with any development plan policy. It is indeed a conclusion of this report that the proposed development does not conflict with THLP policies D.DH4 and D.DH6 or with LP policies D3 and D9. With regard to LP policies the proposed development has been the subject of a design led approach, its design has been through many iterations, would optimise the housing capacity of the site, and complies with the criteria set out in part C of LP policy D9. [72-75]

#### Other matters

91. Notwithstanding the conclusions reached above, if it is decided that the proposed development would cause harm it would be necessary to carry out a planning balance exercise. The planning benefits of the development are set out in the Statement of Common Ground and, in brief, would be the provision of additional housing against objectively assessed need, the provision of additional affordable

housing against a persistent and acute need in Tower Hamlets, a greater carbon reduction in the context of the Tower Hamlets Climate Emergency, and the provision of commercial units at ground floor level to activate Marsh Wall and to provide employment floorspace. Harm, if any is found, would be outweighed, as a matter of planning judgement, by these considerable planning benefits. [54-58]

#### Conclusion

92. It is the firm conclusion of this report that the proposed building would not have any adverse effect on the character and distinctiveness of the CWTBZ or the CWSSI and complies with the development plan as a whole. Paragraph 11 of the National Planning Policy Framework states that development proposals that accord with an up-to-date development plan should be approved without delay. Planning permission should therefore be granted, subject to conditions and the provisions of the Section 106 Agreement, for 'erection of a ground plus 55-storey residential building (Use Class C3), ground floor flexible commercial space (Use Class E), basement cycle storage, resident amenities, public realm improvements and other associated works' at 225 Marsh Wall, London.

#### Recommendation

93. I recommend that the appeal be allowed and planning permission be granted subject to conditions.

*John Braithwaite*

Inspector



## APPEARANCES

### FOR THE LOCAL PLANNING AUTHORITY:

Mr J Burton	Of Counsel instructed by the Council's Director of Legal Services
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He called

Mr E Miller-McMeeken BSc(Hons) MPhil MRTPI	Borough Design Officer
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Mr K Crilly MA(Hons)	Principal Planner
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### FOR THE APPELLANT:

Mr R Harris	Kings Counsel instructed by Mr I Gilbey, Ms R Newton-Sanders and Ms J Craske of Pinsent Masons LLP
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He called

Dr C Miele MRTPI IHBC	Partner at Montagu Evans
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Mr R McCarthy BA(Hons) BArch RIBA	Board Director at Scott Brownrigg
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Mr J Carter BA(Hons) DipTP MRTPI	Director at Savills
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## DOCUMENTS

- 1 Appellant's Schedule of Appearances.
- 2 List of Appearances for the Local Planning Authority.
- 3 Opening Submissions on behalf of the Appellant.
- 4 Opening Submissions on behalf of the Local Planning Authority.
- 5 Errata Document for Mr Miller-McMeeken's Proof of Evidence.
- 6 Corrections/Errata for Dr Miele's Proof of Evidence.
- 7 Photograph showing extent of Canary Wharf Skyline.
- 8 Aerial schematic showing names and heights of buildings in the CWTBZ.
- 9 Walking route for site visit on 9 February 2023.
- 10 Background information for tall building schemes near to the site.
- 11 CIL Compliance Statement.
- 12 Draft Section 106 Agreement.
- 13 Closing submissions on behalf of the Local Planning Authority.
- 14 Closing submissions for the Appellant.
- 15 Conditions and Reasons.

### **Schedule of recommended conditions**

1. The development hereby permitted shall begin no later than 3 years from the date of this decision'

Reason: To comply with the provisions of Section 91 of the Town and Country Planning Act 1990 (as amended).

2. The development hereby permitted shall be carried out in accordance with the approved drawings and documents listed in a schedule to this decision notice.

Reason: For the avoidance of doubt and in the interest of proper planning.

3. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) (England) Order 2015 (or any order revoking or re-enacting that order with or without modification), or as expressly agreed through planning condition, no fences, barriers, gates, bollards or other means of enclosure, however temporary, shall be erected within the site following the practical completion of the development.

Reason: To control future development in the interest of the character, permeability, usability, appearance and quality of the public realm and to safeguard the high quality appearance of the development in accordance with THLP policies S.DH1 and D.DH2.

4. Unless otherwise specified by a Section 61 Consent granted under the Control of Pollution Act 1974, demolition, building, engineering or other operations associated with the construction of the development (including arrival, departure and loading and unloading of construction vehicles):

- a) Shall be carried out in accordance with the Tower Hamlets Code of Construction Practice;
- b) Shall only be carried out within the hours of 08:00 and 18:00 Monday to Friday and 08:00 to 13:00 on Saturdays. No works shall take place on Sundays and Public Holidays;
- c) Any non-road mobile machinery (NRMM) used shall not exceed the emission standards set out in the Mayor of London's 'Control of Dust and Emissions During Construction and Demolition' Supplementary Planning;
- d) Ground-borne vibration shall not exceed 1.0mm/s Peak Particle Velocity (PPV) at residential and 3.0mm/s PPV at commercial properties neighbouring the site;
- e) Noise levels measured 1 metre from the façade of any occupied building neighbouring the site shall not exceed 75dB(A) at residential and commercial properties, and 65dB(A) at schools and hospitals (LAeq,T where T = 10 hours Monday to Friday and 5 hours for Saturday).

Reason: To safeguard the amenity of local residents and the area generally in accordance with THLP policy D.DH8.

5. The development hereby permitted shall be carried out in accordance with the approved Demolition Environmental Management Plan LPA Ref. PA/20/01131/S (updated 21st August 2020).

Reason: To safeguard the amenity of local residents and the area generally in accordance with policies and D.DH8 of the Tower Hamlets Local Plan 2031.

6. The development hereby permitted shall be carried out in accordance with the approved Construction Environmental Management Plan LPA Ref. PA/20/01019/S (updated 21st August 2020).

Reason: In the interests of highway and pedestrian safety and to preserve the amenity of the area in accordance with the requirements of THLP policies D.DH8, STR1, D.TR2 and D.TR4.

7. The tree protection measures in accordance with British Standard 5837 – 'Trees in relation to Construction Sites' shall be retained in place for the duration of the construction works and during this period no works other than landscaping works shall be carried out or materials stored within the protected areas underneath the trees.

Reason: To comply with the duties in Section 197 of the Town and Country Planning Act 1990 to safeguard and enhance the amenity of the area, to maximise the quality and usability of open spaces within the development, and to enhance its setting within the immediate locality in accordance with THLP policy D.ES3.

8. a. The development hereby permitted shall be carried out in accordance with the approved Land Contamination Remediation details LPA Ref. PA/20/01095;

i. 225 Marsh Wall, London: Remediation Strategy, Revision 0, dated May 2020. Report Reference: CG/38335A

ii. Angel House, 225 Marsh Wall: Executive Technical Summary Report, Revision 0, dated September 2019

b. The contamination remediation works shall be carried out in accordance with the approved details and completed prior to the first occupation of the development. The provisions of the monitoring and maintenance plan shall be in force from the first occupation of the development and retained for its lifetime.

c. If during the works any additional contamination is encountered, all works in the relevant part of the site shall cease immediately and not resume until either:

i. The potential contamination has been assessed and a remediation scheme has been submitted to and approved in writing by the Local Planning Authority; or

ii. Timescales for submission of a remediation scheme and details of works which may be carried out in the interim have been agreed in writing by the Local Planning Authority.

Any additional land contamination shall be fully remedied prior to the first occupation of the development.

d. The development shall not be occupied until a post completion verification report, including results of sampling and monitoring carried out, has first been submitted to and approved in writing by the local planning authority demonstrating that the site remediation criteria have been met.

Reason: To make sure that contaminated land is properly treated and made safe before development, to protect public health and to meet the requirements of LP policies 5.21 and 5.22 and THLP policy D.ES8.

9. The development hereby permitted shall be carried out in accordance with the following approved details:

- a. Archaeological Written Scheme of Investigation LPA Reference PA/20/01334;
  - i. Written Scheme of Investigation for Stage 1A Geoarchaeological Evaluation to Inform Further Works (Dated 19/10/2020);
  - ii. Historic Environment Assessment (Dated September 2016).
- b. Post-excavation Assessment LPA Reference PA/21/02563/S;
  - i. Cover Letter dated 25 November 2021;
  - ii. 225 Marsh Wall Geoarchaeological Post-excavation assessment and updated project design. November 2021.

Reason: To ensure that archaeological remains are properly investigated and recorded and to ensure that the development is in accordance with THLP policy S.DH3.

10. The development hereby permitted shall be carried out in accordance with the following approved Piling Method Statement details:

- A. In respect of Zone A LPA Reference PA/20/01957:
  - (i) Drawing Number 5298-WAL-ZZ-ZZ-DR-S-0010 Rev P02 - Thames Water Sewer Interface Drawing;
  - (ii) Piling Method Statement Dated 09/09/2020;
  - (iii) Ground Movement and Impact Assessment Report Revision 2 prepared by CGL dated September 2020.
- B. In respect of Zone B LPA Reference Ref.PA/21/00302:
  - (i) Emergency Preparedness Plan Design Report prepared by Wentworth House Partnership: Ref: 2779-WHP-A6-XX-RP-Y-0113-S3-P03 dated January 2021.
  - (ii) Method Statement Sheet Piling prepared by Keltbray dated January 2021 Rev 00

- (iii) Email from Thames Water to Chalegrove dated 08 February 2021
- (iv) Drawing Number 5298-WAL-ZZ-ZZ-DR-S-0010 Rev P02 – Thames Water Sewer Interface Drawing
- (v) Drawing Number CPL/NW/S L001TD – Proposed Sheet Piling Installation Layout

Reason: In order to prevent and minimise the potential for damage to subsurface sewerage infrastructure (in consultation with Thames Water), and THLP policy D.ES6.

11. Prior to the commencement of the 48<sup>th</sup> floor, an update to the approved Crane Methodology Report approved under LPA Reference PA/20/0254 shall be submitted to and approved in writing by the Local Planning Authority. The updated Crane Methodology Statement shall include geographical coordinates, maximum working height and details of aircraft obstacle lighting. Development shall not be carried out otherwise than in accordance with the approved details.

Reason: To ensure that the development does not impact on air traffic safety (in consultation with London City Airport) in accordance with THLP policy D.DH6.

12. The development hereby permitted shall be carried out in accordance with the details of materials approved under PA/22/00243 and PA/22/01045 in relation to:

- a) Sample panels of all principal external cladding materials and fenestration, including details of joints, panel sizes and fixing method for cladding;
- b) Drawings of a typical residential bay at a scale of 1:50 as shown on drawing 18942-DDU-225-XX-DR-A-84202 Rev P2;
- c) Details of fenestration;
- d) Details and samples of roofing;
- e) Details of any balconies and terraces and associated balustrades, soffits and drainage;
- f) Drawings and details of entrances;
- g) Drawings and details of shopfronts;
- h) Details and samples of metal screen at level 01;
- i) Details of external rainwater goods, flues, grilles, louvres and vents;
- j) Details of any external plant, plant enclosures and safety balustrades.

REASON: To ensure a satisfactory external appearance of the development and that high quality materials and finishes are used, in accordance with THLP policies S.DH1 and D.SG4.

13. No landscaping works shall take place until a landscaping scheme has been submitted to and approved in writing by the Local Planning Authority. The scheme shall include details of:

- a) hard landscaping including ground surfaces, kerbs and planter enclosures;
- b) soft landscaping including number, size, species and location of plants;
- c) on-going five-year maintenance and watering provisions for soft landscaping;
- d) lighting including light spill drawings and proposed Lux levels;
- e) biodiversity features within landscaping;
- f) sustainable urban drainage features within landscaping;
- g) drain covers, manholes and covers for access to drainage and utilities;
- h) play equipment and playable landscape features;
- i) railings, walls and other means of enclosure;
- j) bollards, gates and other access control measures;
- k) furniture including benches and litter bins;
- l) CCTV and other security measures;
- m) ground levels, gradients, thresholds and any inclusive access provisions;
- n) external cycle parking stands;
- o) wind mitigation measures;
- p) public art incorporated within the landscaping scheme (such public art can include bespoke street or play furniture or other bespoke landscape elements); and
- q) signage and wayfinding measures including Legible London signage.

The landscaping scheme shall be completed in accordance with the approved details no later than during the first planting season following practical completion of the development and shall be retained for the lifetime of the development. Any trees or shrubs which die, are removed or become seriously damaged or diseased within five years from the completion of the landscaping works shall be replaced in the next planting season with the same species or with an approved alternative as agreed in writing by the Local Planning Authority.

Reason: To ensure a high quality of the public realm, including through providing appropriate permeability, legibility, wayfinding, microclimate and public art; ensure residential amenity; ensure that the development creates a safe and secure environment; ensure provision of biodiversity improvements; ensure that the development provides inclusive access; ensure adequate provision, location and design of visitor cycle parking spaces, in accordance with LP policy G5 and THLP policies S.DH1, D.DH2, S.DH3, D.DH3, D.ES3, and D.TR3.

14. Prior to the commencement of relevant works full details of the internal and external communal amenity, play area and the roof terraces shall be submitted to and approved in writing by the Local Planning Authority. The communal amenity,

play and terrace areas shall be constructed and fitted out in accordance with the approved details, completed prior to the first occupation of the development and retained for the lifetime of the development.

No more than 80% of market units shall be occupied until a Communal Area Management Plan for the internal and external communal amenity, play area and the roof terraces has been implemented and is in operation in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The Communal Area Management Plan shall govern access, management and maintenance arrangements for the communal areas within the building and remain in force for the lifetime of the development.

Reason: To ensure that the proposal provides an inclusive and accessible environment in accordance with LP policies D5 and S4 and THLP policies S.H1, S.DH1 and D.H3.

15. The development hereby permitted shall be carried out in accordance with the following approved Design Standards dated 22/02/2022 (LPA Ref. PA/22/00095):

1. Letter to Chalegrove from Metropolitan Police dated 12<sup>th</sup> April 2021;
2. Buro Happold V40 Emergency Lighting Strategy;
3. Buro Happold W40 Security CCTV and Access Control Strategy;
4. 46738-BHE-225-XX-09-DR-E-10901 Rev P01 – Electrical Services Resi Floor Electrical Services (Affordable) Level 9;
5. 46738-BHE-225-XX-09-DR-E-20901 Rev P01 – Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 9;
6. 46738-BHE-225-XX-10-DR-E-11001 Rev P01 – Electrical Services Resi Floor Electrical Services (Affordable) Level 10-25;
7. 46738-BHE-225-XX-10-DR-E-21001 Rev P01 – Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 10-25;
8. 46738-BHE-225-XX-26-DR-E-12601 Rev P03 – Electrical Services Resi Floor Electrical Services (Private) Level 26-41;
9. 46738-BHE-225-XX-26-DR-E-22601 Rev P03 – Electrical Services Resi Floor Lighting and Fire Alarm (Private) Level 26-41;
10. 46738-BHE-225-XX-42-DR-E-14201 Rev P01 – Electrical Services Resi Floor Electrical Services (Private) Level 42-45;
11. 46738-BHE-225-XX-42-DR-E-24201 Rev P01 – Electrical Services Resi Floor Lighting and Fire Alarm (Private) Level 42-45;
12. 46738-BHE-225-XX-53-DR-E-15301 Rev P02 – Electrical Services Level 46;
13. 46738-BHE-225-XX-53-DR-E-25301 Rev P01 – Electrical Services Resi Floor Lighting and Level 46;
14. 46738-BHE-225-XX-54-DR-E-15401 Rev P02 – Electrical Services Level 47;
15. 46738-BHE-225-XX-54-DR-E-25401 Rev P02 – Electrical Services Lighting and Fire Alarm Level 47;
16. 46738-BHE-225-XX-55-DR-E-15501 Rev P02 – Electrical Services Level 48;
17. 46738-BHE-225-XX-55-DR-E-25501 Rev P02 – Electrical Services Lighting and Fire Alarm Level 48;
18. 46738-BHE-225-XX-RF-DR-E-15601 Rev P03 – Electrical Services Level Roof;



19. 46738-BHE-225-XX-RF-DR-E-25601 Rev P02 – Electrical Services Lighting and Fire Alarm Level Roof;
20. 46738-BHE-225-XX-XX-DR-E-00001 Rev P03 – Electrical Services Electrical Symbols Legend;
21. 46738-BHE-225-XX-B2-DR-E-19801 Rev P03 – Electrical Services Level B2;
22. 46738-BHE-225-XX-B2-DR-E-29801 Rev P03 – Electrical Services Lighting and Fire Alarm Level B2;
23. 46738-BHE-225-XX-B1-DR-E-19901 Rev P03 – Electrical Services Level B1;
24. 46738-BHE-225-XX-B1-DR-E-29901 Rev P03 – Electrical Services Lighting and Fire Alarm Level B1;
25. 46738-BHE-225-XX-GF-DR-E-10001 Rev P02 – Electrical Services Level GF;
26. 46738-BHE-225-XX-GF-DR-E-20001 Rev P02 – Electrical Services Lighting and Fire Alarm Level GF;
27. 46738-BHE-225-XX-01-DR-E-10101 Rev P02 – Electrical Services Level 01;
28. 46738-BHE-225-XX-01-DR-E-20101 Rev P02 – Electrical Services Lighting and Fire Alarm Level 01;
29. 46738-BHE-225-XX-02-DR-E-10201 Rev P02 – Electrical Services Level 02;
30. 46738-BHE-225-XX-02-DR-E-20201 Rev P02 – Electrical Services Lighting and Fire Alarm Level 02;
31. 46738-BHE-225-XX-03-DR-E-10301 Rev P03 Electrical Services Resi Floor Electrical Services (Affordable) Level 3-5;
32. 46738-BHE-225-XX-03-DR-E-20301 Rev P03 Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 3-5;
33. 46738-BHE-225-XX-06-DR-E-10601 Rev P01 Electrical Services Resi Floor Electrical Services (Affordable) Level 6-8;
34. 46738-BHE-225-XX-06-DR-E-20601 Rev P01 Electrical Services Resi Floor Lighting and Fire Alarm (Affordable) Level 6-8.

Prior to commencement of the fit-out works on the 42nd floor of the development the developer shall submit to the Local Planning Authority any required updates to the plans and specifications referenced above and plans and specifications for floors 49 to 55.

Reason: To ensure that Secured by Design principles are implemented into the development in accordance with LP policy D11 and THLP policy D.DH2.

16. The development hereby permitted shall be carried out in accordance with the approved Sustainable Urban Drainage Scheme, including ongoing maintenance provisions, LPA Ref. PA/21/02520; cover Letter dated 18 November 2021 and SUDS Strategy Rev. 2 prepared by Walsh dated 12th November 2021. The approved SUDS scheme shall be maintained in operational condition for the lifetime of the development.

Reason: To minimise the risk of flooding, to protect water quality and in the interest of sustainability accordance with THLP policy D.ES5.



17. The development hereby permitted shall be carried out in accordance with the approved Water Supply Impact Study LPA Ref. PA/20/02642; Water Consumption Report prepared by Buro Happold, 0046738-BHE-XX-XX-RP-P-0001 Rev P01 Dated 24th November 2020, and Clean Water Capacity Report Dated 3rd December 2020 Ref: DS6078026.

Reason: To ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand, in accordance with LP policy SI 5 and THLP policy D.ES6..

18. Prior to the commencement of relevant works a Scheme of Highway Improvement Works necessary to serve this development shall be submitted to and approved in writing by the Local Planning Authority. The development shall not be occupied until the completion of the approved works.

Reason: In the interests of highway and pedestrian safety and to preserve the amenity of the area in accordance with the requirements of THLP policies D.DH8, STR1, D.TR2 and D.TR4.

19. a. The 4 wheelchair accessible car parking spaces shown on the approved drawings shall be provided prior to the first occupation of the development and shall be retained for the lifetime of the development.

b. No fewer than 1 car parking space shall be provided with an electric vehicle charging point. Passive provision for future provision of an electric charging point shall be made for a further 1 car parking space. The charging points as well as passive provision shall be in place prior to the first occupation of the development and retained for its lifetime.

c. The development shall not be occupied until a Parking Management Strategy has been submitted to and approved in writing by the Local Planning Authority. The strategy shall govern the allocation of car parking spaces, including the wheelchair accessible spaces for the lifetime of the development and include provisions prioritising provision of car parking to the disabled and families.

d. At no time shall any other external areas of the development save for those explicitly identified on the approved drawings be made available for parking of motor vehicles other than to facilitate essential maintenance works.

Reason: To promote sustainable transport by reducing the need for car travel and to ensure the provision of adequate inclusive parking facilities in accordance with LP policies T2 and T6 and THLP policy D.TR3.

20. No fewer than 715 cycle parking spaces (of which no fewer than 14 shall be provided as Sheffield stands within the public realm, no fewer than 690 shall be provided as double-stacked bike racks within the basement, and no fewer than 11 shall be provided as dedicated storage units on levels 13, 14 and 16) shall be provided prior to the first occupation of the development and thereafter maintained in operational condition and made available to the occupiers of the development for the lifetime of the development. The cycle access lifts shown on the approved drawings shall be provided prior to the first occupation of the development and thereafter maintained in operational condition for the lifetime of the development.

Reason: To ensure the provision of adequate cycle parking facilities in accordance with the requirements of LP policy T5 and THLP policy D.TR3.

21. The development shall not be occupied until a Delivery and Servicing Plan and a Waste Management Plan have been implemented and are in operation in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The Delivery and Servicing Plan and the Waste Management Plan shall remain in force for the lifetime of the development. The delivery, servicing, waste storage and waste collection facilities shown on approved drawings shall be provided prior to the first occupation of the development and thereafter maintained in an operational condition and made available to the occupiers of the building for the lifetime of the development.

Reason: To ensure adequate provision for the storage of refuse in accordance with THLP policy D.MW3, and to ensure adequate delivery and servicing arrangements and to minimise the development's impacts on the safety and capacity of the road network, in accordance with THLP policies D.DH8, S.TR1, D.TR2 and D.TR4.

22. All of the approved residential units shall be constructed to ensure that:
- i. internal ambient noise levels do not exceed 35dB LAeq,16 hour, between hours 07:00 - 23:00 and within bedrooms do not exceed 30 dB LAeq, 8 hour between the hours of 2300 - 0700.
  - ii. exposure to vibration is no higher than of "low probability of adverse comment" in accordance with BS6472 'Evaluation of Human Exposure to Vibration in Buildings'; and
  - iii. at any junction between residential and non-residential uses, the internal noise insulation level is no less than 60 dB DnT,w + Ctr.

A post completion verification report including acoustic test results and confirming that the above minimum standards have been achieved shall be submitted to the Local Planning Authority for their written approval prior to the expiry of the period of 3 months from first occupation of no more than 80% of the residential units within the development.

Reason: To ensure that the occupiers and users of the proposed development do not suffer a loss of amenity by reason of excess noise from environmental and transportation sources in accordance with THLP policies D.DH8 and D.ES9.

23. a. Any mechanical plant and equipment within the development shall be designed and maintained for the lifetime of the development so as not to exceed a level of 10dB below the lowest measured background noise level.
- b. A post completion verification report including acoustic test results and confirming that the above maximum noise standards have been complied with shall be submitted to the Local Planning Authority for its written approval prior to the expiry of the period of 3 months from first occupation or the occupation or no more than 80% of the residential units within the development.

Reason: To ensure that the development does not result in noise disturbance to neighbouring residents in accordance with LP policy D14 of the London Plan and THLP policies D.DH8 and D.ES9.

24. a. Development shall be carried out in accordance with the Sustainability and Energy Statement, April 2021, 046738-BHE-225-XX-RP-EN-0002 Rev. P05. The energy efficiency and sustainability measures set out therein shall be completed prior to the first occupation of the development and retained for its lifetime.

b. The development shall achieve development plan policy compliance in regulated carbon dioxide emission reductions against the baseline of Target Emissions Rate of Part L of Building Regulations (2013).

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

d. The development shall not be occupied until a post completion verification report has been submitted to and approved in writing by the Local Planning Authority to confirm that the above minimum standards have been achieved and that all of the approved energy efficiency and sustainability measures have been implemented.

Reason: To ensure a reduction of carbon dioxide emissions and the highest levels of sustainable design and construction in accordance with LP policy SI and THLP policies D.ES6 and D.ES7.

25. a. All of the approved residential units shall be constructed in accordance with the Building Regulations 2010 (as amended) optional requirement M4(2) 'accessible and adaptable' save for 36 one-bedroom private units and 5 one-bedroom intermediate units which shall comply with the optional requirement M4(3)(2)(a) 'wheelchair adaptable' and 8 two-bedroom affordable rented units which shall comply with the optional requirement M4(3)(2)(b) 'wheelchair accessible'.

b. Any lifts shown on the approved drawings shall be installed and in an operational condition prior to the first occupation of the relevant residential access cores. The lifts shall be retained and maintained in an operational condition for the lifetime of the development.

Reason: To ensure adequate provision of accessible and adaptable dwellings & wheelchair accessible and wheelchair adaptable dwellings and that adequate step-free access is provided in accordance with policy D.H3 of the Tower Hamlets Local Plan 2031.

26. The non-residential uses hereby permitted shall be closed for business and not be open to customers and members of the public outside of the hours of 0700 – 2300 Mondays to Saturdays and 0800 – 2200 on Sundays and Bank Holidays.

Reason: To safeguard the amenity of local residents and the area generally in accordance with THLP policy D.DH8.

27. No hot food preparation shall take place within any of the non-residential uses hereby permitted until all relevant kitchen and hot food preparation areas have first been provided with air extraction and filtration systems designed in accordance with details which have been submitted to and approved in writing by the Local Planning Authority. The details shall include extraction hoods, internal fans, flexile couplings, three-stage filtration (grease filters, pre-filters and activated carbon filters), height of

extract duct discharge and anti-vibration mounting. The air extraction system shall be retained and maintained for the lifetime of the use in accordance with the approved details.

Reason: To manage and prevent further deterioration of existing low quality air across London in accordance with THLP policy D.ES2.

## **Schedules of drawings and documents referred to in condition 2**

### **Schedule of Drawings**

Existing Site & Location Plan, Drawing No: 18942-DDU-225-00GL-DR-A-00000 P3  
Proposed Site & Location Plan, Drawing No: 18942-DDU-225-00GL-DR-A-00001 P5  
Proposed Basement Level B1, Drawing No: 18942-DDU-225-00B1-DR-A-83101 P7  
Proposed Basement Level B2, Drawing No: 18942-DDU-225-00B2-DR-A-83100 P4  
Proposed Ground Floor Plan, Drawing No: 18942-DDU-225-00GL-DR-A-83102 P10  
Proposed Level 1 Floor Plan, Drawing No: 18942-DDU-225-01-DR-A-83103 P4  
Proposed Level 2 Floor Plan, Drawing No: 18942-DDU-225-02-DR-A-83104 P4  
Proposed Level 03-05 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83105 P4  
Proposed Level 06-08 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83106 P4  
Proposed Level 9 Floor Plan, Drawing No: 18942-DDU-225-09-DR-A-83107 P4  
Proposed Level 10 Floor Plan, Drawing No: 18942-DDU-225-10-DR-A-83108 P5  
Proposed Level 11 Floor Plan, Drawing No: 18942-DDU-225-11-DR-A-83109 P4  
Proposed Level 12 Floor Plan, Drawing No: 18942-DDU-225-12-DR-A-83110 P4  
Proposed Level 13-14 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83111 P5  
Proposed Level 15 Floor Plan, Drawing No: 18942-DDU-225-15-DR-A-83112 P6  
Proposed Level 16 Floor Plan, Drawing No: 18942-DDU-225-16-DR-A-83113 P3  
Proposed Level 17-18 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83114 P4  
Proposed Level 19-37 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83115 P2  
Proposed Level 38 Floor Plan, Drawing No: 18942-DDU-225-38-DR-A-83116 P4  
Proposed Level 39 Floor Plan, Drawing No: 18942-DDU-225-39-DR-A-83117 P2  
Proposed Level 40-41 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83118 P2  
Proposed Level 42-52 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83119 P2  
Proposed Level 53 Floor Plan, Drawing No: 18942-DDU-225-53-DR-A-83120 P2  
Proposed Level 54 Floor Plan, Drawing No: 18942-DDU-225-54-DR-A-83121 P2  
Proposed Level 55 Floor Plan, Drawing No: 18942-DDU-225-55-DR-A-83122 P2  
Proposed Roof Level Floor Plan, Drawing No: 18942-DDU-225-RF-DR-A-83123 P2  
1-Bed Apartment Type 2 Floor Plan, Drawing No: 18942-DDU-225-XX-DR-A-83201 P4  
1-Bed Apartment Type 3 – M4(2) Wheelchair Unit, Drawing No: 18942-DDU-225-XX-DR-A-83202 P4  
1-Bed Apartment Type 4, Drawing No: 18942-DDU-225-XX-DR-A-83203 P4  
1-Bed Apartment Type 5, Drawing No: 18942-DDU-225-XX-DR-A-83204 P4  
1-Bed Apartment Type 6 – M4(3) Wheelchair Unit, Drawing No: 18942-DDU-225-XX-DR-A-83205 P4  
1-Bed Apartment Type 7, Drawing No: 18942-DDU-225-XX-DR-A-83206 P4  
1-Bed Apartment Type 8, Drawing No: 18942-DDU-225-XX-DR-A-83207 P4

2-Bed Apartment Type 2, M(4)3 Wheelchair Unit, Drawing No: 18942-DDU-225-XX-DR-A-83208 P4

2-Bed Apartment Type 3, Drawing No: 18942-DDU-225-XX-DR-A-83209 P4

2-Bed Apartment Type 6, Drawing No: 18942-DDU-225-XX-DR-A-83210 P4

3-Bed Apartment Type 2, Drawing No: 18942-DDU-225-XX-DR-A-83211 P4

3-Bed Apartment Type 3, Drawing No: 18942-DDU-225-XX-DR-A-83212 P4

3-Bed Apartment Type 4, Drawing No: 18942-DDU-225-XX-DR-A-83213 P4

3-Bed Apartment Type 5, Drawing No: 18942-DDU-225-XX-DR-A-83214 P2

3-Bed Apartment Type 6, Drawing No: 18942-DDU-225-XX-DR-A-83215 P2

4-Bed Apartment Type 1, Drawing No: 18942-DDU-225-XX-DR-A-83216 P2

North Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84100 P3

South Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84101 P3

East Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84102 P3

West Elevation, Drawing No: 18942-DDU-225-XX-DR-A-84103 P3

Section AA, Drawing No: 18942-DDU-225-XX-DR-A-85100 P3

Section BB, Drawing No: 18942-DDU-225-XX-DR-A-85101 P3

Ground Floor Below Ground Drainage Layout, Drawing No: 5298-WAL-ZZ-GF-DR-D-3000 P02

Services Plan Overlay – Gas Pipes Locations, Drawing No: CPL-225-Log-114 A

Cladding Details 1, Drawing No: 18942-DDU-225-XX-DR-A-84200 P2

Cladding Details 2, Drawing No: 18942-DDU-225-XX-DR-A-84201 P2

Cladding Details 3, Drawing No: 18942-DDU-225-XX-DR-A-84202 P1

Cladding Details 4, Drawing No: 18942-DDU-225-XX-DR-A-84203 P1

Cladding Details 5, Drawing No: 18942-DDU-225-XX-DR-A-84204 P1

Bathroom Type WC-10 – Affordable Housing, Drawing No: 18942-DDU-225-XX-DR-A-74060 P3

Shower Room Type BT-30 – Intermediate and Private Tenure, Drawing No: 18942-DDU-225-XX-DR-A-74030 P3

Rectangular Balcony Detail sheet 2, Drawing No: BOA-2499-XX-DR-10001 D

### **Schedule of Documents**

Accommodation Schedule, Number: 18942-DDU-225-XX-SC-A-15122, dated 06.04.22.

Affordable Housing Statement, May 2021

Approved Crane Methodology, April 2021

Approved Drainage Report, April 2021

Approved Geoarchaeological Written Scheme of Investigation, April 2021

Approved Phase II Site Investigation Scheme, April 2021

Approved Piling Method Statement (Zone A), April 2021

Approved Piling Method Statement (Zones B & C), April 2021

Approved Remediation Strategy, April 2021

Aviation Safeguarding Review, April 2021, P1222/R1 Rev. 02  
Biodiversity Net Gain Assessment, 16th April 2021  
Circular Economy Statement, 14th March 2021, Rev. P03  
Construction Environmental Management and Logistics Plan, 18<sup>th</sup> January 2021, Report Number 3, Rev. C  
Cycle Space Requirements  
Design and Access Statement (inc. Landscape report),  
18942-DDU-225-XX-RP-A-00100 Rev. P8, 14th April 2021  
Environmental Statement, by Trium, 16th April 2021  
ES Interim Review Report Response, 28th July 2021  
ES Final Review Report Response, 31st August 2021  
ES Non-Technical Summary, October 2021  
Financial Viability Assessment, 16th April 2021  
Fire Safety Statement, September 2021, 20025n04.2 Rev. P2  
Fire statement form, 225 Marsh Wall  
Flood Risk Assessment, 16th April 2021  
Heritage and Townscape Statement, April 2021  
Housing Association Support Letter, dated 12th April 2021  
Landscape report, 30th September 2021, 18942-DDU-225-XX-RP-A-80002 Rev. P5  
London Sustainable Drainage Proforms v2019.02  
Planning Statement, April 2021  
Response to GLA Stage I Report, dated 12 October 2021  
Savills Letter dated 7 April 2022  
Statement of Community Involvement (SCI), April 2021  
Summary of Variations between Consented & proposed Scheme's Accommodation, by CPL  
Sustainability and Energy Statement, April 2021, 046738-BHE-225-XX-RP-EN-0002 Rev. P05  
Transport Assessment, April 2021, Report Number 1, Rev. P1  
TV & Radio Interference Assessment, Revision 00, 2016-09-21  
Urban Greening Factor, December 2020  
Verti45 Cycle stand specification  
Viability Letter by Avison Young, dated 19 November 2021  
Waste Strategy, 189420000, 2/03/2022  
Waste Management Strategy – Addendum, dated 21 June 2022  
Waste Management Strategy 001, June 2022, by WSP  
Whole Life Carbon Assessment, 16th April 2021, 046738-BHE-225-XX-RP-SP-0001 Rev. P01  
Wind Mitigation Measures Compliance Review – EIA Clarification Note, dated 25 November 2021





# Department for Levelling Up, Housing & Communities

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## 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).

### 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 day after 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 day after 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.