

30 September 2021

## Thameside West, Silvertown

in the London Borough of Newham

planning application no. 18/03557/OUT

**Planning application** Town & Country Planning Act 1990 (as amended); Greater London Authority Acts 1999 and 2007; Town & Country Planning (Mayor of London) Order 2008 ('2008 Order') and Town and Country Planning (Environmental Impact Assessment) Regulations 2017.

### Strategic issue

To consider any material changes to policy since the Deputy Mayor's resolution to grant planning permission on 5 August 2020, and to extend the time period for completion of the Section 106 legal agreement to 31 October 2021.

### Recommendation

That the Deputy Mayor, acting under delegated authority:

- Agrees that the policy and guidance changes since the Representation Hearing do not materially affect the resolution to grant planning permission made on 5 August 2020.
- Agrees to an extension of time for the completion of the Section 106 legal agreement (i.e. the period after which the Head of Development Management or the Executive Director of Good Growth have delegated authority to refer it back to the Deputy Mayor in order to refuse permission if the Section 106 legal agreement is not completed).
- Agrees with the final wording of the Section 106 legal agreement and draft planning conditions noting that there have been changes to the wording in light of the policy and guidance changes since the Representation Hearing.

### Context

1 On 5 August 2020, the Deputy Mayor, acting under delegated authority as local planning authority, resolved to grant conditional planning permission in respect of London Borough of Newham planning application 18/03557/OUT subject to the prior completion of a Section 106 legal agreement.

2 The Deputy Mayor also gave delegated authority for the Head of Development Management or the Executive Director of Good Growth to negotiate the Section 106 legal agreement and to refer the application back to the Deputy Mayor should the Section 106 agreement not be completed by 5 November 2020.

3 On 29 October 2020, the Deputy Mayor agreed to an extension of time for the completion of the Section 106 legal agreement to 29 January 2021. This allowed Newham Council to gain agreement from its Strategic Development Committee to sign

the Section 106 legal agreement, and the Secretary of State (SoS) for Housing, Communities and Local Government to confirm that he had decided not to call in the application.

4 All of the Section 106 obligations agreed and set out in the Representation Hearing Report have been secured and all necessary conditions agreed. Further amendments have been undertaken after discussions with the Applicants and Newham Council in response to the publication of the new London Plan, as discussed below.

## **Planning policy and guidance update**

5 There have been a number of changes to policy and guidance since the Representation Hearing that must be considered, as discussed further below.

### National Planning Policy Framework

6 A revised National Planning Policy Framework (NPPF) was published on 19 July 2021. Alongside minor and superficial changes, the new NPPF includes changes to the following areas (2021 NPPF paragraph numbers):

- Paragraph 11(a) – reference to sustainable development addressing climate change in plan-making.
- Paragraph 22 – Reference to new settlements or village extensions.
- Paragraph 53 – Amended criteria to the use of Article 4 directions.
- Paragraph 73 – Reference to well-designed and beautiful homes in housing delivery.
- Paragraph 96 – Requirement for LPA's to work proactively and positively with public service infrastructure providers, such as further education colleges, hospitals and criminal justice accommodation.
- Paragraph 110 – Reference to the new National Design Guide and the National Model Design Code.
- Paragraph 125 – Reference to area-based character assessments, design guides and codes, and masterplans in creating beautiful and sustainable places.
- Part 12 – Reference to the new National Design Guide and the National Model Design Code for achieving well designed spaces, as well as tree planting.
- Paragraphs 159-169 – Amendments to planning for flood risk and sustainable drainage.
- Paragraph 198 – Need to consider the importance and retention of historic statues, plaques, memorials or monuments.
- Subsequent Amendments to Annex 1 (Implementation) and Annex 3 (Flood risk vulnerability classification) to account for the above.

7 The application and the Representation Hearing Report have been considered against the above amendments to the 2021 NPPF. Relevant matters relating to design, tree planting, public service infrastructure, and flood risk and sustainable

drainage were addressed in the Representation Hearing Report, albeit not in the context of the 2021 NPPF. The outcome of the assessment against the material amendments to the 2021 NPPF is summarised as follows.

8 All aspects of the design of the scheme are considered in depth in paragraphs 296-442 of the Representation Hearing Report. As required by the 2021 NPPF, the detailed Phase 1 proposals, together with the Design Code and Parameter Plans that would inform detailed assessment of Reserved Matters applications for outline phases, will create high quality, beautiful and sustainable buildings and places that will function well and add to the overall quality of the area over the lifetime of the development. The Representation Hearing Report fully considers how the development responds to the ten characteristics identified in the National Design Guide and the National Model Design Code.

9 The proposals include extensive tree planting and contribute to the urban greening of the site, as discussed in paragraphs 523-530 of the Representation Hearing Report.

10 The scheme would deliver public service infrastructure. As discussed in paragraphs 223-232 of the Representation Hearing Report, this includes a new four-form entry Primary school, with temporary provision for earlier phases; £13.7M to Secondary school provision; £6.9M to health infrastructure; and deliver new community infrastructure space. It would also contribute £9M to a new DLR station, new bus infrastructure, highway works, safeguarded river bus mooring points, Legible London signage, and cycle hire infrastructure, as discussed in paragraphs 443-497 of the Representation Hearing Report.

11 The application has been rigorously assessed in terms of all sources of flood risk and sustainable drainage by the GLA, the Council, and independent environmental consultants, as discussed in paragraphs 516-520 of the Representation Hearing Report, and the Environment Agency made no objection.

12 The amendments to the NPPF are not considered to alter the recommendation outlined in the Representation Hearing Report. NPPF paragraph numbers in the Representation Hearing Report are those from the 2019 NPPF, which have been amended in the 2021 NPPF.

### New London Plan

13 At the time of the Representation Hearing, the new London Plan was intended to Publish form and had been sent to the SoS alongside a schedule of the Panel Inspector's post-EiP recommendations, and the Mayor's response to them.

14 On 10 December 2020, the SoS issued a series of Updated Changes and two further Directions. In terms of the two further Directions under Section 337 of the Greater London Authority Act 1999 (as amended), Direction DR4 (specifically regarding updated para 6.4.8 on Green Belt and Metropolitan Land) is not relevant to this particular application; however, Direction DR12 concerns Policy D9 (Tall Buildings), which is relevant, as discussed further below.

15 On 21 December 2020, the Mayor submitted to the Secretary of State his Publication London Plan with amendments designed to address all Directions.

16 On 29 January 2021, the Secretary of State confirmed that he had no further matters to raise and that the Publication London Plan (December 2020) conformed with the previous Directions and could now be published.

17 On 2 March 2021, the new London Plan was published (2021 London Plan). Accordingly, the Plan now has full statutory weight requiring an update to the assessment originally undertaken as the previous London Plan (2016) has been superseded.

#### *Changes made through Updated Changes*

18 In terms of the Updated Changes since the Representation Hearing, of particular relevance to this Application are amended Directions DR2 (Policy D3 Optimising site capacity), and DR4 (Policy E4 Land for industry, logistics and services to support London's economic function; Policy E5 Strategic Industrial Locations; and Policy E7 Industrial intensification, co-location and substitution).

19 Concerning Direction DR2, Policy D3 seeks to optimise site capacity, ensuring that development is of the most appropriate form and land use for the site. As a result of the Updated Changes, Policy D3(B) now states that:

*“Higher density developments should generally be promoted in locations that are well connected to jobs, services, infrastructure and amenities by public transport, walking and cycling, in accordance with Policy D2 Infrastructure requirements for sustainable densities. Where these locations have existing areas of high density buildings, expansion of the areas should be positively considered by Boroughs where appropriate. This could also include expanding Opportunity Area boundaries where appropriate.”*

20 GLA officers consider that the proposal is the most appropriate form and land use for the site. The proposals are of a high density, and will become well-connected as a result of public transport and connectivity improvements that will be delivered by the application. The proposals are within a context of high density development, within an Opportunity Area, and will deliver a new town centre, which all support a high density scheme. The land uses, including residential, industrial, and town centre uses, meet identified needs.

21 Concerning Direction DR4, the Representation Hearing Report stated that the Application was in accordance with Intend to Publish London Plan Policies E4, E5 and E7; however, due to the SoS Direction, the support in these policies for the release of Strategic Industrial Land (SIL) for residential use through industrial intensification, co-location, and substitution could only be given little weight at that time. It was noted however, that the SoS Direction, issued after the Council resolved to refuse the application, were considered to support the approach to industrial substitution and intensification in the Application. This Direction is now incorporated into the published 2021 London Plan. The Representation Hearing Report found that the Application would comply with emerging Development Plan policy in respect of the introduction of residential uses into SIL but found that the scheme was not in accordance with adopted London Plan policy 2.17 or Local Plan policies J1 and J2. In Policy E5 of the adopted London Plan, references to refusal for uses not identified in Policy E4 have been removed, with emphasis placed on identifying opportunities to substitute SIL where there is evidence that alternative, more suitable, locations exist, while retaining the planning framework, development plan or masterplanning

approach to release. In Policies E4 and E7, references to 'no net loss of industrial capacity' in SIL and industrial land more generally have been removed, with emphasis placed on the provision of intensified floorspace. The previous tables and maps for industrial release and retention have also been removed.

22 The Representation Hearing Report stated that due to the SoS Direction, more weight should be given to the adopted policies at that time, namely Policy 2.17 of the London Plan (2016) and Policies J1 and J2 of the Newham Local Plan, than to the emerging London Plan policies in respect of industrial land. In light of the conflict with those policies, the proposal was considered to represent a departure from the Development Plan. Pursuant to section 38(6), the Representation Hearing Report went on to consider whether there were material considerations which justified a departure from the Development Plan. The substantial benefits resulting from the proposed development were considered to outweigh the harm arising from the non-compliance with Policy 2.17 of the former London Plan and Policies J1 and J2 of the Newham Local Plan.

23 The Site mostly comprised non-designated industrial land, with the south-east corner of the Site (1.9 hectares), as part of Site Allocation S09, being within the 'Thameside West' SIL. The proposals include 3,608 sq.m. of flexible industrial floorspace (Use Class B1(b), B1(c), B2 (restricted) and B8) in the detailed Phase 1 (within the existing SIL) as part of a co-location approach, with residential uses at higher levels, and ancillary uses at first floor acting as a buffer between residential and industrial uses. A co-location approach is also proposed for outline Phase 2 adjacent to this, with 833 sq.m. of flexible industrial floorspace (Use Class B1(b), B1(c), B2 (restricted) and B8), which is also within the existing SIL. A further 15,000 sq.m. of flexible industrial floorspace (Use Class B1(c), B2 and B8) is proposed within outline Phase 3, in a standalone building allowing multi-storey use, in substitution for the lost SIL floorspace. Over 19,000 sq.m. of industrial floorspace is proposed in total, re-providing the existing SIL area (1.9 hectares or 19,000 sq.m) within the wider Site. This industrial building is separated from the residential uses by the DLR embankment/ viaduct to the south and the Silvertown Flyover to the north.

24 The published 2021 London Plan Policy E4 states that any release of industrial land in order to achieve wider planning objectives should be facilitated through the processes of industrial intensification, co-location and substitution set out in Policy E7 and supported by Policy E5. Policy E4 also states that any release of industrial capacity should be focused in locations that are (or are planned to be) well-connected by public transport, walking and cycling and contribute to other planning priorities including housing (and particularly affordable housing), schools and other infrastructure. Policy E7 states that intensification can be used to facilitate the consolidation of an identified SIL to support the delivery of residential and other uses, such as social infrastructure, and can be considered as part of a co-ordinated masterplanning process in collaboration with the GLA and the Borough. This is subject to not compromising surrounding industrial uses, early delivery of intensified industrial uses, and design mitigation to residential uses. Policy E5 refers to opportunities to intensity in line with Policy E7.

25 The Application is considered to be in accordance with Policy E4 of the 2021 London Plan in that the release of SIL for residential use within the Site would be facilitated through industrial intensification, co-location, and substitution; in a location that will be well-connected by public transport, walking and cycling; and contributes to

other planning priorities, including housing, affordable housing, schools and other infrastructure. The Application is also considered to be in accordance with Policies E5 and E7 of the 2021 London Plan in delivering intensified industrial uses; supporting the delivery of residential and other uses including social infrastructure; the industrial activities on-site and in surrounding areas would not be compromised in terms of their continued efficient function; and appropriate design mitigation is provided to residential elements to prevent conflict between uses. Mitigation measures are explained more fully under the 'Agent of Change', 'Urban design' and Residential quality' sections of the Representation Hearing Report. Due to the limitations of the Silvertown Tunnel construction, it was accepted that the delivery of all of the intensified industrial uses would not be possible in advance of residential units occupied; however, the industrial uses were brought forward in the phasing so that all would be delivered by Phase 3. The potential release of the part of the Site identified as SIL was subject to rigorous consideration by Council and GLA officers as part of a co-ordinated masterplanning process at pre-application stage, prior to submission of the Application in December 2018. This took place alongside the development of Newham's new Local Plan, although when published in December 2018 the Site Allocation retained 1.9 hectares of SIL within the site.

26 Policy J1 of Newham's Local Plan directs major industrial (and where appropriate intensified industrial) development to SIL and 'Local Industrial Locations'. Policy J2 identifies SIL for protection, managed intensification, and suitable in principle for Use Classes B1(b) B1(c) B2, B8 and appropriate Sui Generis employment uses, with other supporting facilities including B1a uses where ancillary in scale and function. It identifies part of the Silvertown Landing Site Allocation (within the Application Site) for managed release, with scope for some limited further release through intensification of SIL uses over a smaller land area or with reduced spatial impact. However, as stated in the Hearing Report, the Local Plan retains the existing SIL within the Application Site (acknowledging that Policy J2 and the Site Allocation allow some limited further release), and does not support the introduction of residential uses into SIL.

27 As set out above, the proposed development is now considered to comply with 2021 London Plan Policies E4, E5 and E7; and although the proposals are not in accordance with Policies J1 and J2 of the Newham Local Plan, on balance, the proposals are considered to be in accordance with the Development Plan when considered as a whole. In any event, the substantial and very important public benefits resulting from the scheme (as stated in paragraphs 577-579 of the Representation Hearing Report) outweigh any harm arising from the non-compliance with Policies J1 and J2 of the Newham Local Plan. Furthermore, as the proposals are now in accordance with the 2021 London Plan, the balance is tilted more in favour of the proposals compared to that at the time of the Representation Hearing. It remains the view of GLA officers that that planning permission should be granted.

#### *Changes made through further SoS Direction*

28 The SoS Direction DR12 regarding Policy D9 (Tall Buildings) primarily sought to ensure that tall buildings are only brought forward in appropriate and clearly defined areas, as determined by boroughs. Intend to Publish London Plan Policy D9(B3) already stated that "*Tall buildings should only be developed in locations that are identified in Development Plans*", however, the SoS considered that the policy should go further and following his Direction, London Plan Policy D9(B3) now states

that “*Tall buildings should only be developed in locations that are identified as suitable in Development Plans”*. (the new words inserted as a result of the SoS’s Direction are underlined and in italic) Policy D9 also identifies that boroughs should define what is considered a tall building for specific localities, which should not be less than 6 storeys or 18 metres; identify appropriate heights on maps in development plans. Supporting paragraph 3.9.3 states that “*in large areas of extensive change, such as Opportunity Areas, the threshold for what constitutes a tall building should relate to the evolving (not just the existing) context*”.

29 The Representation Hearing Report notes that Policy SP4 of Newham’s Local Plan defines tall buildings as buildings of six or more storeys. It states that the appropriateness, added value and positive contribution of tall buildings will require robust justification in relation to successful place-making and sustainable, mixed and balanced communities. Parts of Stratford and Canning Town are identified as key locations for the tallest buildings, while other locations in Strategic Sites are identified as suitable, with scale reflecting place hierarchy, ensuring sufficient space between clusters, as indicated in Site Allocations. Site Allocations S08 and S09 covering the Application Site provide indicative building heights of 10 to 12 storeys, with up to 18 storeys at key locations.

30 The Site is clearly identified as suitable for tall buildings, and while the proposals go beyond the indicative heights in the Site Allocations, it is noted that these are only indicative. The Representation Hearing Report notes that the tallest 26 storey buildings mark the new DLR station and the new town centre; and that the existing and emerging context includes buildings of similar and greater height, reinforcing Canning Town in the Council’s place hierarchy. Further discussion of the appropriateness of the proposed height and massing, including the secured Amendments, is contained in the Representation Hearing Report, which concluded that the proposals also meet the requirements of draft Policy D9(C) in terms of impacts. GLA officers conclude that the Application remains in accordance with published 2021 London Plan Policy D9.

#### Changes made through SoS Safeguarded Wharves Directions

31 On 19 February 2021, the SoS issued Directions relating to the safeguarding of wharves, including the revocation of previous safeguarded status for Thames Wharf.

32 The Representation Hearing Report noted that the Safeguarded Wharves Review had recommended that Thames Wharf (3.27 hectares of the ‘Thames Wharf’ parcel of the Site, within Phases 5-11) be released from safeguarding. Planning obligations were proposed to prevent the commencement of phases 5-11 prior to the removal of wharf safeguarding, and to secure a reactivation strategy in the event that the safeguarding direction was not revoked.

33 As the safeguarding of Thames Wharf has now been revoked, these obligations are no longer considered to be required.

#### Changes to London Plan Guidance

34 The following supplementary planning guidance (SPG), strategies and other documents were revoked upon publication of the 2021 London Plan and are no longer relevant:

- Town Centres SPG (July 2014).
- Sustainable Design and Construction SPG (April 2014).
- Safeguarded Wharves Review (2013/18).
- Land for Industry and Transport SPG (September 2012).

35 Having been considered in the Representation Hearing Report at pre-consultation stage, the following draft London Plan Guidance was published for consultation in October 2020:

- Good Quality Homes for all Londoners.
- Public London Charter.
- Circular Economy Statement Guidance.
- Whole Life-Cycle Carbon Assessments.
- 'Be Seen' Energy Monitoring Guidance.

36 The following pre-consultation London Plan Guidance was published in March 2021:

- Air Quality Positive.
- Transport Land.
- Urban Greening Factor.

37 The draft and pre-consultation guidance is not considered to alter the recommendation outlined in the Representation Hearing Report; however, changes to planning conditions and Section 106 obligations have been secured in response to this guidance, as discussed below.

### Newham Council

38 The Council's Local Plan has not changed since the original resolution was made. In addition, there have been no new local Supplementary Planning Documents or Guidance published since the Representation Hearing.

## **Changes to planning conditions and Section 106 obligations**

39 Following the publication of the new London Plan (March 2021) there are several new policies which now attract full weight and which have been addressed through the imposition of appropriate planning conditions (Annex 1 – Draft Decision Notice) and section 106 obligations (Annex 2 – Draft Section 106 agreement).

40 Policy D5 of the 2021 London Plan (part B5) requires that all developments where lifts are installed, have as a minimum at least one lift per core (or more subject to capacity assessments) which would be a suitably sized fire evacuation lift suitable to be used to evacuate people who require level access from the building. Conditions have been secured requiring that prior to commencement of each building details must be submitted to and approved by the Council which demonstrate compliance with the requirements of London Plan Policy D5 part B5.

41 Policy D8 (part O) of the 2021 London Plan requires the provision and future management of free drinking water at appropriate locations in new or redeveloped public realm. A condition secures at least two free drinking water points to be delivered prior to the occupation of Phase 5.

42 Policy D12 (part B) of the 2021 London Plan requires submissions of a Fire Statement produced by a third party, suitably qualified assessor. As referenced in the Representation Hearing Report, this was provided for Phase 1 and secured by condition, with an outline Fire Statement for later phases. A condition also secures the submission of a Fire Statement for each phase prior to commencement.

43 Policy S6 of the 2021 London Plan requires large-scale developments that are open to the public, and large areas of public realm, to provide and secure the future management of free publicly-accessible toilets suitable for a range of users including disabled people, families with young children and people of all gender identities, and free 'Changing Places' toilets. This has been secured by Section 106 agreement, to be delivered as part of Phase 4.

44 Policy SI2 of the 2021 London Plan requires major development proposals to include a detailed energy strategy to demonstrate how the zero-carbon target will be met within the framework of the energy hierarchy, verify and report on energy performance and calculate whole life-cycle carbon emissions through a nationally recognised Whole Life-Cycle Carbon Assessment and demonstrate actions taken to reduce life-cycle carbon emissions. The originally agreed carbon offset payment for Phase 1 has been reviewed in line with the requirements of the 2021 London Plan and the latest GLA energy guidance. The revised and agreed carbon offset figure of £675,830 for Phase 1 has been secured as part of the Section 106 agreement, with future phase contributions to be calculated by the submission of updated energy strategies for each phase. Planning conditions and Section 106 obligations to verify and report on energy performance and whole life-cycle carbon emissions have also been applied. As such, the proposals meet the requirements of Policy SI2 of the London Plan.

45 Policy SI6 of the 2021 London Plan requires a number of measures to ensure London's global competitiveness, including the provision of sufficient ducting space for full fibre connectivity infrastructure and providing for mobile connectivity. A condition has been applied requiring detailed plans to be submitted and approved by the local planning authority prior to commencement, demonstrating the provision of sufficient ducting space for full fibre connectivity infrastructure.

46 Policy SI7 of the 2021 London Plan requires a Circular Economy Statement to be submitted. As referenced in the Representation Hearing Report, this was provided and conditions have been applied requiring a detailed Circular Economy Statement and Operational Waste Management Strategy for each phase, as well as post-completion monitoring reports.

## **Changes to site circumstances**

47 The Applicants have provided a Statement of Conformity (July 2021), which confirms that the findings and conclusions of the Planning Statement and Environmental Statement remain valid and do not need to be updated. This includes a review of any new and relevant cumulative schemes in relation to the Environmental Statement. GLA officers agree with the findings and conclusions of the Statement.

## **Representation update**

48 On 21 October 2020, a representative of Western Beach Apartments made a further representation to the Deputy Mayor restating concerns of excessive height with resulting loss of daylight and sunlight, proximity to existing buildings, construction noise and dust impacts, and impacts on health and wellbeing. These matters were considered fully in the Representation Hearing Report and raised no further material considerations. The Deputy Mayor provided a response to the representation and on 16 November 2020, a representative of Western Beach Apartments thanked the Deputy Mayor for the comprehensive response and the assurance that concerns had been addressed.

## **Legal considerations**

49 Under the arrangements set out in Article 7 of the 2008 Order and the powers conferred by Section 2A of the Town and Country Planning Act 1990 the Deputy Mayor is acting under delegated authority as the Local Planning Authority for the purposes of determining this planning application.

## **Planning balance**

50 As discussed above, the 2016 London Plan that was in place at the time of the Representation Hearing has been superseded by the adoption of the 2021 London Plan, so the policies of the 2016 London Plan are no longer relevant. As well as the adoption of the new London Plan and the policies within it now having full weight, the key changes to the wording of the policies is set out above. Further consideration of additional/amended conditions and/or Section 106 obligations to ensure compliance with other requirements of the 2021 London Plan and other guidance documents are also addressed in this report.

51 The Representation Hearing Report stated that the proposal represented a departure from the Development Plan due to the introduction of residential uses into a Strategic Industrial Location, which did not accord with 2016 London Plan Policy 2.17 and Policies J1 and J2 of the Newham Local Plan. As discussed above, the masterplanning of the Site to allow further industrial intensification, substitution and co-location were considered to be in line with Policies E4, E5 and E7 of the Intend to Publish London Plan; however, these policies were given less weight than the adopted London Plan policies in light of the Secretary of State Direction. The proposal was therefore considered to represent a departure from the Development Plan when considered as a whole. In accordance with the NPPF and Section 38(6) of the Planning and Compensation Act 2004, an assessment of the overall planning balance was undertaken to establish whether there were other material considerations to justify a departure from the Development Plan. GLA officers concluded that the substantial and very important public benefits resulting from the scheme outweighed the conflict with Policy 2.17 of the London Plan and J1 and J2 of the Newham Local Plan, and on this basis, planning permission was recommended to be granted.

52 As discussed above, now that the SoS Direction DR4 is incorporated into published 2021 London Plan Policies E4, E5 and E7, the proposals are in accordance with the 2021 London Plan; and although the proposals are not in accordance with Policies J1 and J2 of the Newham Local Plan, on balance, the proposals are

considered to be in accordance with the Development Plan when considered as a whole. In any event, the substantial and very important public benefits resulting from the scheme (as stated in paragraphs 577-579 of the Representation Hearing Report) outweigh any harm arising from the non-compliance with Policies J1 and J2 of the Newham Local Plan. Furthermore, as the proposals are now in accordance with the 2021 London Plan, the balance is tilted more in favour of the proposals compared to that at the time of the Representation Hearing. It remains the view of GLA officers that that planning permission should be granted.

## **Confirmation of officer recommendation - reasons for approval**

53 The Deputy Mayor, acting under delegated powers and acting as the local planning authority, has considered the particular circumstances of this Application against national, strategic and local planning policy, relevant supplementary planning guidance and all material planning considerations. He has also had regard to Newham Council's Strategic Development Committee Report dated 12 November 2019 (as updated by Newham Council's Strategic Development Committee Update Report), the draft decision notice setting out fifteen Reasons for Refusal and all consultation responses and representations made on the case both to Newham Council and the GLA. The below reasons set out why this Application is acceptable in planning policy terms:

- i. The proposed masterplan-led approach to the comprehensive redevelopment of an historically under-utilised, brownfield, riverfront, Opportunity Area Site, including public sector land; would deliver a well-designed, optimised, mixed-use scheme next to a new DLR station. The scheme would provide homes, jobs and employment training, a new local centre, community infrastructure, and significant areas of new and improved green infrastructure, including a 1km section of riverside walkway as part of the Thames Path. The masterplan successfully integrates the scheme with the wider area, reinforcing communities, and contributing to achieving convergence and resilience. It provides a good relationship with immediate surrounding uses in line with Agent of Change principles. The phasing of the masterplan appropriately responds to the expected progress of land hand-back of the Site subsequent to the construction of the Silvertown Tunnel; and the delivery of transport and social infrastructure. On this basis, the Application accords with the NPPF; Policies SD1, D2, D3, S1, S2, S3, S4, and S5 of the 2021 London Plan; and Policies S1, S3, S4 and INF9 of the Newham Local Plan.
- ii. The proposed development demonstrates Good Growth principles by building a strong, healthy and inclusive community; making the best use of the Site; delivering the homes Londoners need; growing the economy; and increasing efficiency and resilience. The phasing of the masterplan provides for the delivery of the required transport and social infrastructure when needed, and restricts development until it is delivered. Planning obligations would restrict development beyond 1,700 new homes prior to completion of the new DLR station, to which the development would contribute £9M. The development would deliver a new four-form entry Primary school, with temporary provision for earlier phases; contribute £13.7M to Secondary school provision; £9.6M to health infrastructure; deliver new community infrastructure space; and provide significant areas of green infrastructure. The development would also contribute approximately £30.8M of Borough Community Infrastructure Levy (CIL) and £7.9M of Mayoral CIL. On this

basis, the Application accords with the NPPF; Policies SD1, D2, D3, S1, S2, S3, S4, and S5 of the 2021 London Plan; and Policies S1, S3, S4 and INF9 of the Newham Local Plan.

- iii. The proposed development introduces residential uses into a Strategic Industrial Location (SIL); however, the proposals take a masterplan-led approach with managed release and re-provision of high-quality industrial capacity, through intensification of SIL-type space in a standalone building; and lighter industrial uses in a co-location approach beneath residential uses. On this basis, the Application accords with the NPPF and 2021 London Plan Policies E4, E5 and E7; and although the proposals are not in accordance with Policies J1 and J2 of the Newham Local Plan, on balance, the proposals are considered to be in accordance with the Development Plan when considered as a whole.
- iv. The proposed development would provide up to 5,000 residential units, of which 39% by habitable room, (34% by unit), would be secured as affordable housing, increased from 37% by habitable room (32.5% by unit) at Committee. This would include a policy compliant tenure mix, made up of London Affordable Rent and London Shared Ownership units. As this does not meet the 50% threshold level for former industrial sites, the application has been considered under the Viability Tested Route. GLA officers are satisfied that the affordable housing is the maximum viable level at this time. Early stage, lack of progress and mid-term viability reviews would allow any surplus to be used to provide additional affordable units on-site. A late-stage viability review (on 80% occupation) would allow any surplus to be used for off-site affordable housing. The affordability levels comply with policy requirements and would be secured by legal agreement. The proposed development therefore supports convergence, community cohesion, and mixed and balanced communities. On this basis, the Application accords with the NPPF; 2021 London Plan Policies H4, H5, H6, and H7; Policies H1 and H2 of the Newham Local Plan; and the Mayor's Affordable Housing and Viability SPG
- v. The proposed development introduces residential uses adjacent to industrial uses (within a SIL) and a late-night licenced venue; however, the relationship between these uses is nonetheless in line with Agent of Change principles (and has been improved in this respect since Committee), including appropriate mitigation, and would not negatively impact on the successful ongoing operation of industrial or licenced venue uses. On this basis, the Application accords with the NPPF; Policies D13, E4, E5 and E7 of the 2021 London Plan; and Policies S1, S3, S4, J1, J2 and SP8 of the Newham Local Plan.
- vi. The proposed height, scale and massing of up to approximately 26 storeys is appropriate considering the Site is identified as suitable for tall buildings in the Local Plan; the existing and emerging context of tall buildings; the masterplanning approach of this very large Site with an extensive river frontage; the contribution of tall buildings to wayfinding in an area fragmented by transport infrastructure; the significant infrastructure provision being provided, including extensive areas of open space; and the distinct spatial separation from neighbouring development (with sufficient links provided by the proposals) due to surrounding transport infrastructure, which means that the tall buildings proposed would have very limited impacts on surrounding amenity. The massing and layout would allow physical and visual permeability through the Site by the creation of substantial areas of new public open space. Subject to the proposed mitigation, no harm would be caused to the significance of heritage assets. The massing of the Phase

1 element has been reduced since consideration at Committee, and has been rigorously assessed in terms of environmental impacts, which are acceptable subject to the proposed mitigation. The Design Code and Parameter Plans are sufficient to support the height, scale and massing for the outline phases, which will be assessed in detail at Reserved Matters stage. On this basis, the Application accords with the NPPF; Policy D1, D2, D3, D4, D5, D6, D7, D8, D9, HC1 and HC2 of the 2021 London Plan; and Policies S1, S3, S4, SP1, SP2, SP3, SP4 and SP5 of the Newham Local Plan.

- vii. The proposed development would not unacceptably reduce the level of daylight and sunlight to neighbouring residential properties, which are at least 60 metres away from the closest proposed buildings. The May 2020 amendments to the scheme clearly improve the daylight and sunlight impacts in comparison to the scheme considered at Committee. Given the context and highly accessible location, the modest extent of non-compliance with BRE guidelines, and the requirement for an appropriate balance to be struck with the significant benefits which will be provided by the scheme; the daylight and sunlight impacts on neighbouring residential properties are acceptable, maintaining living conditions and representing a neighbourly form of development. On this basis, the Application accords with the NPPF; 2021 London Plan Policies D1 and D6; and Newham Council's Local Plan Policies SP2, SP3 and SP8.
- viii. The proposed development would achieve a high standard of sustainable design and construction, minimising carbon dioxide emissions, with carbon offset contributions of £858,420 for Phase 1, and further contributions subject to calculation through Reserved Matters. It would use energy efficiently and from renewable sources, in accordance with energy hierarchy policy. The development would deliver significant sustainable urban drainage, ecology and urban greening benefits. It would achieve a BREEAM rating of 'excellent' (improved from 'very good' at Committee), to be secured by condition, and would therefore achieve sufficient Building Performance Standards to respond to climate change. On this basis, the Application accords with the NPPF; Policies G1, G4, G5, G6, G7, S11, S12, S13, S14, S15, S17, S18, S112, S113 of the 2021 London Plan; and Policies SC1, SC2, SC3, and SC4 of the Newham Local Plan.
- ix. The proposed mix of housing tenures and unit sizes are appropriate considering the location and characteristics of the Site and the density and form of development. The May 2020 amendments improve the housing mix since consideration at Committee by reducing the proportion of studio units and increasing three-bed units, with significant improvements in London Affordable Rent proportions. While the proportion of three-bed units remains below the Council's target of 39%, the policy allows for a shortfall if justified by viability assessment. The viability of the scheme has been rigorously assessed, and the increased amount of affordable housing, including the significant increase in three-bed London Affordable Rent units provides the maximum amount of affordable housing at this stage. Review mechanisms would be secured, with the aim to secure increased affordable housing should viability support this. The proposed development therefore supports convergence, community cohesion, and mixed and balanced communities. On this basis, the Application accords with the NPPF; Policies H10 and H13 of the 2021 London Plan; and Policies S1, H1 and H3 of the Newham Local Plan.

- x. The proposed development would optimise the potential of this Opportunity Area Site through a design-led masterplanned approach, that has been subject to a considerable level of design scrutiny. It would deliver an appropriate density that has due regard to the Site's context and capacity for growth, and existing and planned supporting infrastructure capacity, including transport. On this basis, the Application accords with the NPPF; 2021 London Plan Policies D2, D3 and D4; and Newham Local Plan Policies S1, H2 and SP3.
- xi. The proposed development provides a good standard of residential quality, including space standards; aspect, outlook and privacy; inclusive housing; amenity and play space; daylight, sunlight and overshadowing. There are no unacceptable air quality or noise impacts. The relationship between the proposed residential uses and the adjacent retained SIL and transport infrastructure is in line with Agent of Change principles (and which has been improved in this respect since Committee). On this basis, the Application accords with the NPPF; Policies D4, D5, D6, D7, D13 and D14 of the 2021 London Plan; and Policies SP1, SP2, SP3, SP8 and H1 of the Newham Local Plan.
- xii. The proposed high-density, residential-led mixed use development in an accessible location adjacent to a new DLR station would represent a pattern of development that would reduce the need to travel, particularly by car, and this is reflected in its car-free (with the exception of disabled persons parking) nature. The quantum of proposed car parking is acceptable subject to a suitable framework of controls and allocation, including a car parking management plan, provisions for restricting resident parking permits for new residents, electric vehicle charging points, travel plans and car club spaces alongside promotion of and support for sustainable travel. The application materials include sufficient information to enable evaluation of existing road conditions; and the impact on the local road network, junctions, and highway safety is acceptable. On this basis, the Application accords with the NPPF; Policies T1, T2, T3, T4, T5, T6 and T7 of the 2021 London; and Policies INF1, INF2 and SP8 of the Newham Local Plan.
- xiii. The proposals would protect pedestrian and cyclist safety and promote active and sustainable travel, including segregated walk/cycle routes, wayfinding, and cycle hire infrastructure. It would provide large areas of public realm and extensive permeability to a Site that is currently largely inaccessible, connecting well into the surrounding areas. It would provide appropriate mitigation in terms of planning obligations for improved transport infrastructure, including a contribution of £9M secured towards the new Thames Wharf DLR station. Cycle parking provision complies with the relevant standards. For the early phases, the necessary public realm improvements are secured to provide improved access to existing DLR stations and bus stops, with development beyond 1,700 units restricted until delivery of the new Thames Wharf DLR station. On this basis, the Application accords with the NPPF; Policies S115, T1, T2, T3, T4, T5, T6, T7 and T9 of the 2021 London Plan; and Policies INF1, INF2 and SP8 of the Newham Local Plan.
- xiv. The proposed development adopts a Healthy Streets approach. Section 278 contributions are proposed to deliver improvements to Dock Road, in co-ordination with the Silvertown Tunnel works to Dock Road, and the Council/Royal Docks North Woolwich Road improvement works. This would provide a high-quality pedestrian and cyclist experience and the successful integration of this new mixed-use neighbourhood. On this basis, the Application accords with the

NPPF; Policies T1, T2, T3, T4, T5, T6, T7 and T9 of the 2021 London Plan; and Policies INF1, INF2 and SP8 of the Newham Local Plan.

- xv. The Environmental Statement (ES) and ES Addendum provide an assessment of the likely significant effects of the proposal on the environment during the construction and operational phases. The ES, ES Addendum and supporting documents comply with the relevant regulations in terms of their scope and methodology for assessment and reporting and have been independently assessed and agreed. The supporting documents also appropriately respond to and address Development Plan policy, supplementary planning guidance and the representations made. As is usual for a major development of this nature, there are potential environmental impacts and, where appropriate, mitigation has been identified to satisfactorily address adverse impacts. Given the context of the Site, the environmental impact of the development is acceptable, including with regard to compliance with the 2021 London Plan; local policy standards; and where applicable, the relevant British Standards.
- xvi. Planning conditions and planning obligations, which meet with the policy tests provided for under paragraphs 55 and 56 of the NPPF, respectively, and in the case of planning obligations, Regulation 122(2) of the Community Infrastructure Levy Regulations 2010, are proposed to ensure that the development is acceptable in planning terms, with the effect that environmental, social and economic impacts are mitigated, in line with 2021 London Plan Policy DF1, and Policy INF9 of Newham Local Plan.
- xvii. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires that planning applications be determined in accordance with the provisions of the Development Plan, unless material considerations indicate otherwise. The proposed development is now considered to comply with 2021 London Plan Policies E4, E5 and E7; and although the proposals are not in accordance with Policies J1 and J2 of the Newham Local Plan, on balance, the proposals are considered to be in accordance with the Development Plan when considered as a whole. In any event, the substantial and very important public benefits resulting from the scheme outweigh any harm arising from the non-compliance with Policies J1 and J2 of the Newham Local Plan. As the proposals are now in accordance with the 2021 London Plan, the balance is tilted more in favour of the proposals compared to that at the time of the Representation Hearing. It remains the view of GLA officers that that planning permission should be granted.

## **Extension of Time**

54 In order to finalise the Section 106 agreement, the Applicants have been required to provide additional Title Information. This has now been provided and the GLA and Newham Council legal representatives are satisfied that the Applicants have the titles to the parts of the Site on which the Key Facilities will be located, and that any third party rights are capable of being addressed in the delivery phase in the specific circumstances of the site. An extension of the time period for completion of the Section 106 legal agreement to 31 October 2021 is therefore recommended.

## **Annex's**

- Annex 1 – Draft Decision Notice.
- Annex 2 – Draft Section 106 agreement)

**Decision record – recommendation agreed/refused**

A handwritten signature in black ink that reads "Jules Pipe". The signature is written in a cursive style and is underlined with a single horizontal line.

**Jules Pipe**  
Deputy Mayor

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