

Mr Chris Pittock
GL Hearn
20 Soho Square
London
W1D 3QW

Our Ref: APP/U5930/A/10/2132540
Your ref: J021691 – Banbury Park\Appeal

05 May 2011

Dear Sir

**TOWN AND COUNTRY PLANNING ACT 1990 – SECTION 78
APPEAL BY HADLEY HOMES
LAND AT BILLET WORKS, KIMBERLEY INDUSTRIAL ESTATE AND TYCO
WORKS, BILLET ROAD, WALTHAMSTOW, LONDON E17 5DT**

1. I am directed by the Secretary of State to say that consideration has been given to the report of the Inspector, John Papworth DipArch (Glos) RIBA, who held a public local inquiry between 16 November and 15 December 2010 into your clients' appeal against the decision of the London Borough of Waltham Forest ("the Council") to refuse planning permission for a mixed use development consisting of demolition of existing buildings and construction of: 562 residential units (196 x 1 bed, 252 x 2 bed, 76 x 3 bed, 34 x 4 bed & 4 x 5 bed) in buildings ranging from two to seven storeys in height. Also comprising retail floor space (Use class A1, total comprising three retail shops at 363m² and one anchor store at 615m²) a dental surgery (D1 at 90m²), café/restaurant (Use class A3 at 222m²), business floor space (Use class B1A, 910m²), a medical health centre (Use class D1 at 1000m²), community forum (Use class D1, 655m²) a crèche/day care facility (Use class D1, 154m²), a total of 440 car parking spaces (basement: 361 spaces, surface level: 79), new and modified vehicular access and pedestrian access points from Billet Road, Kimberley Road and Cheney Row. Provision of open space (public and private), landscaping, plant and servicing; at land at Billet Works, Kimberley Industrial Estate and Tyco Works, Billet Road, Walthamstow, London E17 5DT, in accordance with application Ref: 2008/1709.

2. The 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 1990, on 27 August 2010 because it involves proposals for residential development of more than 150 dwellings which would significantly impact on the Government's objective to secure a better balance between housing demand and supply and create high quality, sustainable, mixed and inclusive communities.

Inspector's recommendation and summary of the decision

3. The Inspector recommended that the appeal be allowed and planning permission granted subject to conditions. However, although the Secretary of State agrees with

many of the Inspector's conclusions, he considers that, for the reasons set out below, there are a number of issues which weigh against this particular scheme, including his conclusion, as set out at paragraphs 21 – 23 below, that the Unilateral Planning Obligation is so flawed that there is no guarantee that it would deliver the level of affordable housing or other essential community benefits which it purports to provide. He regards these shortcomings as rectifiable, but sees that as essentially the responsibility of the parties concerned. He therefore disagrees with the Inspector's recommendation and accordingly dismisses the appeal and refuses planning permission. A copy of the Inspector's report (IR) is enclosed. All references to paragraph numbers, unless otherwise stated, are to that report.

Procedural matters

4. An application was made by your client for an award of costs against the Council. The Secretary of State's decision on this application will be the subject of a separate letter.

5. The Secretary of State has taken account of the Written Ministerial Statement (WMS) of the Rt Hon Greg Clark MP, dated 23 March 2011, which emphasises that the Secretary of State will attach significant weight to the need to secure economic growth and employment; but he does not consider it necessary to refer back to the parties to this case on the WMS as he has already addressed economic growth and employment issues (in so far as they relate to this case) in determining this appeal, and he is satisfied that it raises no new issues which would affect his decision.

Policy considerations

6. In determining this application, the Secretary of State has had regard to section 38(6) of the Planning and Compulsory Purchase Act 2004, which requires that proposals be determined in accordance with the development plan unless material considerations indicate otherwise. In this case, the development plan comprises the London Plan 2008 and the London Borough of Waltham Forest Unitary Development Plan 2006 (UDP).

7. Other material considerations which the Secretary of State has taken into account include the Supplementary Planning Documents and other guidance listed at IR18, including the Blackhorse Lane: Fulfilling the Potential, interim Planning Policy Framework (IPPF) (2006) and the Lee Valley Regional Park Authority (LVRPA) Park Plan (2000). He has also taken account of the National Planning Policy documents listed at IR19; Circular 11/95: *Planning Conditions*; Circular 05/2005: *Planning Obligations*; and the Community Infrastructure Levy Regulations (CIL) (2010).

Main issues

8. In setting out the reasoning for his decision below, the Secretary of State has followed the Inspector's approach of considering the main issues as they relate to the Council's reasons for refusal, including the extent to which each issue accords with the development plan. Except where stated to the contrary in this letter, the Secretary of State is satisfied that, so long as they are capable of being delivered, the elements of the appeal proposals are in general accordance with the relevant policies of the London Plan and the UDP.

Character and appearance

9. The Council's first reason for refusal (IR7, first bullet) is that, by reason of its bulk, scale, massing, height (and distribution of height) and general form of development, the proposed development would constitute an inappropriate form of development. The Secretary of State has taken account for the Inspector's reasoning at IR81-93, and agrees that, while the appeal development would be at a density, height and form not found in the residential properties nearby, it would more closely match the scale of the Academy next door and would, in any case, be large enough to form its own character and appearance with appropriate adaptations to suit the various contexts where it meets the surrounding area. However, the Secretary of State does not consider that this should be taken to imply overall accordance with the Development Plan. This is because the Secretary of State agrees with the Council (Reason 2 at IR7 and IR41) that the proposed density is in excess of the London Plan guidance as set out in policy 3A.3 of the London Plan and associated Density Matrix (Table 3A.2) and, as considered in more detail below, that that has potential consequences in terms of housing sizes and sustainability.

10. Following from his concerns about the failure of the appeal proposal to accord with the development plan in respect of overall density, the Secretary of State also agrees with the Council (IR40) that the massing and bulk of Blocks E and F would be incongruous, overly bulky and dominant. The Secretary of State has taken account of the fact that the Inspector considers (IR87) that Block E has some design features in its favour and (IR88-89) that, while Block F would be prominent from within the designated Green Belt, the main purpose of the Green Belt here is to preserve openness. Nevertheless, the Secretary of State considers that, with a density more closely allied to the London Plan guidelines, it should be possible to design a less intrusive layout for the site.

Sustainability

11. The Secretary of State has taken account of the Inspector's reasoning at IR94-98 relating to the Council's second grounds for refusal (residential density and sustainability - IR7, second bullet). However, while the Secretary of State accepts the Inspector's conclusion at IR 99 that the site's location would be sustainable for the proportion of family housing proposed in the appeal scheme, he does not agree with the Inspector's further conclusion at IR99 that the appeal scheme would accord with the aims of policy BHLP6 in the IPPF with regard to housing tenure, type and density (IR18). Instead, the Secretary of State agrees with the Council (IR42) that the IPPF requires a higher proportion of 3+ bed units on sites such as the appeal site to help meet the borough-wide need; and he considers that a housing mix including more family units would be more closely allied with the aspirations of the IPPF for sites further from the station.

Living conditions, including car parking, safety and crime

12. For the reasons given at IR100-102, the Secretary of State agrees with the Inspector's conclusion at IR103 that the use of underground car parking and what, for the area, would be significant building heights, would all assist in providing space at ground level for landscaping, recreation and movement. Therefore, within the context of his overall concerns about the bulk and massing of the proposed buildings (see paragraph 10 above), the Secretary of State also agrees with the Inspector that,

whilst there are variations in what is provided in individual cases, the overall provision of open space in the appeal scheme would be reasonable and, taken together with the ready access to the LVRP, would accord with the UDP.

13. For the reasons given at IR104-108, the Secretary of State agrees with the Inspector's conclusion at IR108 that, taking account of the layout of the development, the car parking provision in the appeal scheme would be in accord with the relevant UDP policies with regard to reducing the opportunities for crime and locating the parking spaces as close as possible to individual dwellings. The Secretary of State acknowledges the concerns expressed by the Metropolitan Police (IR104) and the Council (IR105) about the spiral of decline that appears to have befallen previous schemes, but agrees with the Inspector that there is no reason why the proposed amelioration measures should not work in the short term (IR106), and that it would be important to ensure that sufficient funds could be raised through an on-going service charge to maintain the seemingly robust proposed scheme (IR108).

14. The Secretary of State agrees with the Inspector that, for the reasons given at IR109-112, there is not necessarily a direct relationship between the proportions of smaller or larger units and the degree of natural surveillance which they would provide; and that the layout of the scheme would provide for lively spaces. He therefore also agrees with the Inspector that the appeal proposal would accord with the UDP in respect of achieving informal supervision. Furthermore, for the reasons given at IR113-115, the Secretary of State agrees with the Inspector's conclusion at IR116 that it would not be contrary to those UDP policies to which he refers.

Affordable housing

15. While noting that, for the reasons given by the Inspector at IR117-119, the provision of affordable housing in the appeal scheme would be underpinned at a rate of 20% whereas the Council's view is that anything less than 40% is unacceptable, the Secretary of State agrees with the Inspector's conclusion at IR121 that a substantial improvement in the economic situation would be required to reach even the 20% level within the life of any planning permission granted now. The Secretary of State therefore considers that, if a scheme were to be devised that met his concerns about density, design and housing mix as set out above, the provision of a minimum of 20% affordable housing would be reasonable in the current economic climate. However, for the reasons given at paragraphs 21 – 23 below, the Secretary of State does not agree with the Inspector's conclusion at IR123 that full weight can be attached to the unilateral undertaking in its present form in furthering the aims of those development plan policies related to encouraging the provision of affordable housing. As he considers the undertaking to be defective, he gives it no weight as a mechanism for securing compliance with the relevant development plan policies.

Provision of infrastructure

16. For the reasons given at IR124-133, the Secretary of State agrees with the Inspector's conclusion at IR134 with regard to the Council's fourteenth reason for refusal (relating to the lack of provision of planning obligations) to the extent that the submission of a unilateral undertaking has, in principle, overcome the Council's concern about the lack of any legal commitment. However, for the reasons given at paragraphs 21 – 23 below, the Secretary of State is not satisfied that the obligations are capable of delivering their stated intentions, and so he gives them little weight as

a mechanism for delivering the aims of the IPPF and related obligations strategy and the relevant development plan policies.

17. Similarly, although the Secretary of State agrees with the Inspector (IR134) that the sums offered by way of contributions to infrastructural provision are in accordance with the CIL regulations in terms of being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development; he gives little weight to this in view of his concerns about the deliverability of the obligations as set out in paragraphs 21 – 23 below.

Open space and servicing arrangements

18. The Secretary of State agrees with the Inspector (IR135) that the scheme relies on the extent and quality of the communal areas around the outside of the blocks to augment the private space available and that the proposed Linear Park would be well used by residents and others. The Secretary of State has therefore given careful consideration to the relationship between pedestrian activity and vehicular movements as described by the Inspector at IR136-138 and agrees with his conclusion at IR139 that the proposed dual uses would be acceptable and accord with the UDP policies listed there.

Other matters

19. For the reasons given at IR140, the Secretary of State agrees with the Inspector that the imposition of appropriate conditions to control emissions would secure accordance with the UDP in relation to air quality. The Secretary of State also notes that no final decision had been taken at the time of the inquiry with regard to on-site healthcare facilities (IR141-143), but he agrees with the Inspector that the allocation of a site for such purposes, with the possibility of that being replaced by further D1 floorspace, would be supported by the UDP policies referred to at IR143. Similarly, for the reasons given at IR144-146, the Secretary of State agrees with the Inspector that there is no evidence that the appeal scheme would not be able to satisfy the UDP policies listed at IR146.

Conditions

20. The Secretary of State has considered the proposed conditions for the appeal scheme and the Inspector's comments at IR77. He is satisfied that the conditions recommended by the Inspector in Annex A to the IR are reasonable and necessary and meet the tests of Circular 11/95. However, he does not consider that these overcome his reasons for refusing the appeal.

Obligation

21. The Secretary of State has considered the Section 106 unilateral undertaking dated 7 January 2011 and the Inspector's comments on it (IR5 and IR78-79) and, although he has concluded that the affordable housing and the financial contributions which the undertaking purports to provide would be acceptable (see paragraphs 15-17 above), he is concerned that the document itself has a number of flaws which mean that it could not be relied upon to deliver its stated intentions and so can be given no weight. He takes the view that rectifying these flaws is essentially the responsibility of the parties to the obligation and he therefore concludes that,

irrespective of his other concerns about the scheme as expressed above, planning permission should not be granted until they are resolved.

22. The Secretary of State's first concern relates to the fact that the area covered by the undertaking, as indicated on the plan attached to the undertaking at schedule 1, covers a smaller area than that covered by the application. The Secretary of State appreciates that this is because that part of the application site which is included in the LVRP and owned by the Council has been excluded (IR147), but he considers that this is unacceptable as the undertaking purports to make provisions relating to the whole of the site but there is no mechanism for applying them to the excluded land. He disagrees with the equivocal approach taken by the Inspector at IR147 and considers that this confusion weighs heavily against granting permission until it can be resolved. He takes the view that, if this land were to be excluded from the development, a new planning application would need to be submitted relating to a revised site area and level of provision. Alternatively, the planning obligation would need to be reformulated to relate to the whole of the appeal site.

23. In addition, the Secretary of State does not consider that it is valid for the appellants to unilaterally impose an obligation on the Council to execute a separate deed before the appellants would become obliged to comply with the terms of their own obligation. He considers that this means that he can give no weight to the enforceability of the obligation in determining this appeal. Furthermore, even if the Council were to enter into the separate deed and the issue of the LVRP land could be resolved, the Secretary of State is also concerned about the enforceability of some of the terms of the undertaking including the lack of identification of any Registered Provider of Affordable Housing as being willing to co-operate on the terms specified; the confusion in the terms of the undertaking between "dwellings" and "bed-spaces"; and the lack of any definition of the phasing arrangements to be applied.

Overall Conclusions

24. Although the Secretary of State is satisfied that the proposal would be in accordance with the development plan in a number of respects, he considers its failure to comply with the London Plan guidance with regard to density to be an important material consideration which counts against it. He also considers that it prejudices the implementation of the IPPF in terms of housing mix and the proportion of family-sized units proposed. He further considers that the means of delivering the affordable housing and financial contributions towards improving the infrastructure of the area by way of a unilateral undertaking are flawed, so that there is no guarantee that they would be provided. There is also the unresolved issue of whether or not the scheme would embrace the development of the land held by the Council within the LVRP area and, if not, the implications of that for the terms of the application and the site boundary. Thus, for the reasons given previously in this letter, the Secretary of State concludes that the shortcomings in the terms of the appeal proposal in its current form are potentially so serious that planning permission should be refused.

Formal Decision

25. Accordingly, for the reasons given above, the Secretary of State hereby dismisses your client's appeal and refuses planning permission for a mixed use development consisting of demolition of existing buildings and construction of: 562 residential units (196 x 1 bed, 252 x 2 bed, 76 x 3 bed, 34 x 4 bed & 4 x 5 bed) in

buildings ranging from two to seven storeys in height. Also comprising retail floor space (Use class A1, total comprising three retail shops at 363m² and one anchor store at 615m²) a dental surgery (D1 at 90m²), café/restaurant (Use class A3 at 222m²), business floor space (Use class B1A, 910m²), a medical health centre (Use class D1 at 1000m²), community forum (Use class D1, 655m²) a crèche/day care facility (Use class D1, 154m²), a total of 440 car parking spaces (basement: 361 spaces, surface level: 79), new and modified vehicular access and pedestrian access points from Billet Road, Kimberley Road and Cheney Row. Provision of open space (public and private), landscaping, plant and servicing; at land at Billet Works, Kimberley Industrial Estate and Tyco Works, Billet Road, Walthamstow, London E17 5DT, in accordance with application Ref: 2008/1709.

Right to challenge the decision

26. A separate note is attached setting out the circumstances in which the validity of the Secretary of State's decision may be challenged by making an application to the High Court within six weeks from the date of this letter.

27. A copy of this letter has been sent to the London Borough of Waltham Forest. A notification letter has been sent to all other parties who asked to be informed of the decision.

Yours faithfully

Jean Nowak

Authorised by Secretary of State to sign in that behalf

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 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

Decisions on called-in applications under section 77 of the TCP Act (planning), appeals under section 78 (planning) may be challenged under this section. 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 under this section must be made within six weeks from the date of the decision.

SECTION 2: AWARDS OF COSTS

There is no statutory provision for challenging the decision on an application for an award of costs. The procedure is to make an application for Judicial Review.

SECTION 3: 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 report of the Inspector's report of the inquiry or hearing within 6 weeks of the date of the decision. If you are such a person and you wish to view the documents you should get in touch with the office at the address from which the decision was issued, as shown on the letterhead on the decision letter, quoting the reference number and stating the day and time you wish to visit. At least 3 days notice should be given, if possible.



Report to the Secretary of State for Communities and Local Government

by John Papworth DipArch(Glos) RIBA

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

Date: 16 February 2011

TOWN & COUNTRY PLANNING ACT 1990 SECTION 78

Appeal by

HADLEY HOMES

Against the Decision of

COUNCIL OF THE LONDON BOROUGH OF WALTHAM FOREST

Inquiry held on 16 – 19 & 23 November, and 14 & 15 December 2010

Land at Billet Works, Kimberley Industrial Estate and Tyco Works, Billet Road, Walthamstow, London E17 5DT

File Ref: APP/U5930/A/10/2132540

File Ref: APP/U5930/A/10/2132540**Land at Billet Works, Kimberley Industrial Estate and Tyco Works, Billet Road, Walthamstow, London E17 5DT**

- 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 Hadley Homes against the decision of the Council of the London Borough of Waltham Forest.
- The application Ref 2008/1709, dated 13 October 2008, was refused by the Council by notice dated 13 May 2010.
- The development proposed is a mixed use development; Demolition of existing buildings and construction of 562 residential units (196 x 1 bed, 252 x 2 bed, 76 x 3 bed, 34 x 4 bed & 4 x 5 bed) in buildings ranging from two to seven storeys in height. Also comprising retail floor space (Use class A1, total comprising three retail shops at 363m² and one anchor store at 615m²) a dental surgery (D1 at 90m²), café/restaurant (Use class A3 at 222m²), business floor space (Use class B1A, 910m²), a medical health centre (Use class D1 at 1000m²), community forum (Use class D1, 655m²) a crèche/day care facility (Use class D1, 154m²), a total of 440 car parking spaces (basement: 361 spaces, surface level: 79), new and modified vehicular access and pedestrian access points from Billet Road, Kimberley Road and Cheney Row. Provision of open space (public and private), landscaping, plant and servicing.

Summary of Recommendation: That the appeal be allowed and planning permission granted subject to the conditions set out in Annex A.**Contents**

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Procedural Matters

1. The Secretary of State for Communities and Local Government has directed, by letter dated 27 August 2010, that he shall determine this appeal. The reason for this is that the appeal involves development of over 150 units which would significantly impact on the Government's objective to secure a better balance between housing demand and supply, and to create high quality, sustainable, mixed and inclusive communities.
2. At the Inquiry an application for costs was made by Hadley Homes against the Council of the London Borough of Waltham Forest. This application is the subject of a separate Report.
3. There are discrepancies between the appellant's description of the development in various appeal documents and that of the Council. This was clarified and agreed during the Inquiry to be the description used in the heading to this Report.
4. The Inquiry sat for a total of 7 days with an accompanied site inspection being carried out on 16 December 2010 to an agreed itinerary¹. That inspection included viewpoints referred to in evidence and as set out in verified photographs², views of the site from the rear gardens of two properties on Kimberley Road at the invitation of the occupiers, and a visit to the recent housing scheme at Southerland Road to view the undercroft parking.³
5. A draft Unilateral Undertaking was presented at the Inquiry and fully discussed, it being referred to in the Council's reason for refusal 7, 8 and 14⁴. At the end of the proceedings on 15 December 2010 it remained to be signed, and therefore I arranged to receive it within an agreed timescale. I will consider this as a main issue in my conclusions.
6. During the Inquiry I published and updated a list of documents received, and these numbers are referred to in the parties' closing submissions⁵.

The Council's Reasons for Refusal

7. The Decision Notice⁶ dated 13 May 2010 cited fourteen reasons for refusal and these are set out in full as follows;
 - **Reason 1** The proposed development, by reason of its bulk, scale, massing, height (and distribution of height) and general form of development would constitute an inappropriate form of development in an area of predominantly two and three storey buildings. The substantial bulk and scale of the proposed buildings, as characterised in particular by Blocks E and F would result in an over intensive form of built development which would have a detrimental impact on the character and visual amenity of the area. As such the proposal would fail to comply with policies SP1, SP2,

¹ Document A9

² Document 6iii, Andrew Williams Appendix A

³ Location p18 CD4.2

⁴ Document A6

⁵ Council Document C16, Appellant Document A7

⁶ Document WRB5

SP13, BHE1, BHE2, BHE6, HSG4 and PSC1 of the Waltham Forest Unitary Development Plan (2006), policies 4B.1, 4B.3 & 4B.10 of the London Plan (2008), Policy BHLP6 of the adopted Blackhorse Lane Interim Planning Policy Framework (2006) and guidance contained in Urban Design Supplementary Planning Document (February 2010).

- **Reason 2** The proposed development as characterised by the high density residential environment and proposed mix of residential units at a location remote from the core of the Blackhorse Lane Interim Planning Policy Framework (IPPF) area with limited accessibility to public transport would fail to accord with the stated objectives for housing sizes, level of affordable housing and housing density which would be compatible with the designation of the application site. The development is inconsistent with the overall context of the IPPF which seeks to concentrate higher densities of development at more accessible locations closer to Blackhorse Road Station and lower densities with higher proportions of family sized units further away from the Station with specific reference to the application site. Therefore the proposed development would not be sustainable in terms of the proposed level, mix and density of housing and would compromise the regeneration and housing objectives for the IPPF area. As such the proposed development would be contrary to policy BHLP6 of the Blackhorse Lane Interim Planning Policy Framework (2006) and policy 3A.3 of the London Plan (2008) and associated Density Matrix (Table 3A.2).
- **Reason 3** The proposed development makes inadequate provision for usable private amenity space within the development, in terms of the limited amount of amenity space in the context of the intensity of occupation envisaged, and the usability, distribution and accessibility the space provided. Such inadequacies would have a significant impact on the standard and quality of the general living environment of future occupiers, particularly in family sized units. As such the proposed development would be contrary to policies BHE1, PSC1 and PSC2 of the adopted Waltham Forest Unitary Development Plan (2006), and Urban Design Supplementary Planning Document (February 2010).
- **Reason 4** The application as submitted fails to demonstrate that the use and long term management of the basement car park would; (i) secure long-term compliance with the Safer Parking Scheme (Park Mark) requirements as set out by the Association of Chief Police Officers to deter criminal activity and anti social behaviour in respect of long term compliance, (ii) include provision of a sustainable and long term management regime to ensure that a safe and secure basement car park would be deliverable as part of the development to ensure that an appropriate form of on site parking is available to serve the occupiers of the development particularly given the remoteness of some of the car parking spaces to their allocated residential units and the remote location of the CCTV monitoring position within the development in relation to the principal car park access points. As such the proposed development would be contrary of policies BHE7 and PSC1 of the adopted Waltham Forest Unitary Development Plan (2006) and policy objectives for the development of the application site contained in the Blackhorse Lane Interim Planning Policy Framework (2006).

- **Reason 5** The proposed mix of housing which includes a high proportion of 1 and 2 bedroom non-family sized units in comparison to the objectives of the IPPF would be contrary to good crime prevention practice and advice for a development of the form and character proposed. The general lack of natural surveillance and effective levels of activity in and around some of the public areas distributed around the blocks would be prejudicial to the well being of the future residential community and the quality and safety of the development particularly in the absence of an agreed long term management strategy. As such the development would be contrary to policies BHE7 and PSC1 of the adopted Waltham Forest Unitary Development Plan (2006), Government guidance in PPS1 and the objectives in the Blackhorse Lane Interim Planning Policy Framework (2006).
- **Reason 6** The proposed development by reason of: (i) the limited availability of car parking for the proposed non residential uses with particular reference to the healthcare facility and convenience store, (ii) the general level of vehicular movements associated with the overall level and nature of activity on the site including servicing and deliveries, and (iii) the remoteness of some of the residential units to designated parking areas, particularly within the basement car park are all characteristics of intensive development that would have an adverse impact on the amenity and environment of the area for future occupiers of the development and the existing adjoining residential community. As such the proposed development would be contrary to policies TSP17 and BHE3 of the adopted Waltham Forest Unitary Development Plan (2006) and the objectives contained in of the Blackhorse Lane Interim Planning Policy Framework (2006).
- **Reason 7** The proposed development, notwithstanding the absence of a legal agreement to secure the proposed provision, would fail to deliver the required amount and mix of affordable housing for the scheme to meet the Council's housing needs. In addition in the absence of a Registered Social Landlord partner it has not been demonstrated that the affordable housing is either deliverable or sustainable. As such the proposed development would be contrary to policies SP18 and HSG6 of the adopted Waltham Forest Unitary Development Plan (2006), the Blackhorse Lane Interim Planning Policy Framework (September 2006) and policies 3A.9 and 3A.10 of the London Plan 2008.
- **Reason 8** The contributions proposed to support the application under section 106 of the Town & Country Planning Act 1990 (as amended), notwithstanding the absence of a legal agreement to secure such contributions, fail to make an adequate contribution to enable the impact of the development on the wider area to be properly mitigated through provision of the necessary infrastructure works to support the proposed density of development in order to ensure that the development is sustainable. As such the proposal would be contrary to guidance contained in the Annex to Planning Obligations Supplementary Planning Document: Blackhorse Lane Planning Obligations Strategy (February 2009), the regeneration objectives outlined in the Blackhorse Lane Interim Planning Policy Framework (September 2006) and policies SP18, HSG5, TSP9 of the adopted Waltham Forest Unitary Development Plan (2006).

- **Reason 9** The submitted Landscape Strategy fails to demonstrate that the constraints posed by the construction of the underground car park and the implications for the future choice of species to form part of the landscaping scheme, which includes the use of containerised planters, can be properly overcome. Therefore the Local Planning Authority has not been satisfied that the overall quality of the landscaping in public areas of the development in such a high density residential and built environment would not be unacceptably compromised. As such the development would fail to comply with policies SP1, SP2, HSG4, ENV16, BHE1, and PSC2 of the adopted Waltham Forest Unitary Development Plan (2006) and the objectives for the site contained in the Blackhorse Lane Interim Planning Policy Framework (September 2006).
- **Reason 10** The application as submitted requires that access for emergency and refuse vehicles be provided through areas designed for public use and amenity within the development, including the Linear Park. As such the proposal would compromise the successful use and appearance of these public areas and introduce potential conflicts, which would have implications for the quality of this public amenity particularly given the predicted and intended levels of use of these areas by the future occupiers of the development and visitors using the Linear Park, and the considerable weight being placed on the amenity value of the space in the application. As such the development would fail to comply with policies SP1, SP2, HSG4, BHE1, BHE3, PSC1 and PSC2 of the adopted Waltham Forest Unitary Development Plan (2006) and the objectives contained in the Blackhorse Lane Interim Planning Policy Framework (September 2006).
- **Reason 11** The proposed development as submitted fails to demonstrate that issues of air quality arising from the development, with particular reference to the choice of renewable energy technologies (as part of the proposed Energy Strategy), would meet the Council's policies and initiatives in respect of air quality and in particular the objectives of the Council's Air Quality Action Plan. As such the Council cannot be satisfied that the development would not lead to further deterioration of air quality on the site and in the surrounding area. The proposals are therefore contrary to policies BHE3, WPM9 and SP18 of the adopted Waltham Forest Unitary Development Plan (2006) and guidance contained in the Council's adopted Planning Obligations Supplementary Planning Document (2008) and Annexes to Planning Obligations Supplementary Planning Documents: Blackhorse Lane Planning Obligations Strategy (2009).
- **Reason 12** The application fails to demonstrate that a sustainable and viable health facility can be provided as part of the proposed development. In the absence of support or a commitment from the Primary Care Trust to seek to occupy the facility, the proposed development would fail to fulfil the stated objectives within the application to achieve a fully mixed-use development to serve the future residents of the development and the local area, and would place added pressure on existing health care services in the local area. In addition the application fails to demonstrate that there are other viable uses for the floorspace in the event that the use is not implemented. As such the development would be contrary to policies SP8, SP17, HSG4 and GCS2 of the adopted Waltham Forest Unitary Development

Plan (2006) and the objectives contained in the Blackhorse Lane Interim Planning Policy Framework (2006).

- **Reason 13** The application as submitted and in the absence of a long term management and funding strategy fails to demonstrate that the provision of non-residential uses, including the Community Forum, business space and crèche/nursery are affordable, viable and sustainable over the medium to long term. In the absence of such a strategy the application proposals do not provide a full mix of uses consistent with regeneration and planning objectives for facilitating the development of the site. As such the proposed development would fail to fully comply with the policy objectives contained in policy SP17, INB11 HSG4 and GCS 2 of the adopted Waltham Forest Unitary Development Plan (2006) and the objectives contained in the Blackhorse Lane Interim Planning Policy Framework (2006).
- **Reason 14** The proposed development in the absence of a legal agreement to provide (i) affordable housing to meet the Council's housing needs, (ii) an appropriate phasing plan for the implementation of the residential and non residential uses, (iii) a financial contribution towards the Council's requirements for physical and social infrastructure, (iv) an appropriate contribution towards the establishment and management of the Community Forum, (v) the inclusion of sustainable forms of transport, (vi) an Employment and Training Strategy, (vii) a commitment to protect the business start up space, (viii) a commitment to meet the costs of carrying out required highway related works off the site, (ix) an enforceable Service and Estate Management Strategy, (x) marketing of the private wheelchair units and (xi) a Construction and Service Management Plan would fail to adequately mitigate the impact of the development on the wider area, provide for necessary social and physical infrastructure improvements arising directly from the development, or secure appropriate local regeneration benefits for the local community, thereby being contrary to policies SP8, SP9, SP13, SP17, SP18, INB11, INB13, INB14, HSG5, HSG6, HSG9, HSG10, GCS1, TSP5, BHE7, WPM9, of the adopted Waltham Forest Unitary Development Plan (2006), and fail to comply with guidance contained in the Council's adopted Planning Obligations Supplementary Planning Document (2008) and Annexe to Planning Obligations Supplementary Planning Documents: Blackhorse Lane Planning Obligations Strategy (2009) and the objectives contained in the Blackhorse Lane Interim Planning Policy Framework (2006).

8. The Council did not pursue all reasons for refusal at appeal or at the Inquiry but all of these will be addressed in this Report.

Main Issues

9. The main issues identified at the opening of the Inquiry were;
 - The effect of the development on the character and appearance of the Billet Road area of Walthamstow. (Council Reason for Refusal 1 and 9)
 - The effect of the development on the aims of Development Plan and national policies on sustainability with particular regard to access to transport. (Council Reason for Refusal 2)

- The effect of the development on the living conditions of prospective occupiers with particular regard to the provision of private open space. (Council Reason for Refusal 3)
- The effect of the development on safety and crime with particular regard to the car parking arrangements. (Council Reason for Refusal 4)
- The effect of the development on safety and crime with particular regard to the mix of housing units (Council Reason for Refusal 5).
- The effect of the development on the living conditions of prospective and neighbouring occupiers with particular regard to the provision of car parking. (Council Reason for Refusal 6)
- The effect of the development on the aims of Development Plan and national policies on the provision and delivery of affordable housing. (Council Reason for Refusal 7 and part 14)
- The effect of the development on the aims the Development Plan and national policies on the provision of infrastructure. (Council Reason for Refusal 8 and part 14)
- The effect of the servicing arrangements on the quality of the development. (Council Reason for Refusal 10)
- The effect of the development on air quality. (Council Reason for Refusal 11)
- The effect of the development on the provision of healthcare facilities. (Council Reason for Refusal 12 and part 14)
- The effect of the development on the aims of Development Plan and national policies on the provision and sustainability of mixed use development. (Council Reason for Refusal 13 and part 14)

The Site and Surroundings

10. The Design and Access Statement (DAS)⁷ and the Addendum⁸ contain graphic information on the site context and it should be noted that there have been some changes since 2008, when the documents were produced, that affect photographs, notably, in the context of the site, the replacement of the school buildings. Key references are;
- *Section 1.2 Scheme Overview* showing the site in relation to the London Borough of Waltham Forest area, the rail transport network and adjoining boroughs.
 - *Section 2* opens with an aerial view of the wider London area highlighting the site showing the grain of development and open space.
 - *Section 2.1.1* shows the regional context and the local area.

⁷ CD5.1

⁸ CD5.2

- *Section 2.1.2* is an aerial photograph of the site surroundings showing retail, education and leisure facilities in the vicinity.
 - *Section 2.1.3 and 2.2.1* contain an aerial photograph of the site with the industrial buildings in place. At the time of the Inquiry the Tyco Works had been demolished. The boundary and present condition also appear in photographs.
 - *Section 2.2.2* details the history of the site and surroundings.
 - *Section 2.2.3* shows the urban grain with recent development to either side highlighted.
 - *Section 2.2.4* existing land use patterns are shown, with schools, open space and commercial uses in addition to existing residential uses.
 - *Section 2.2.5* shows the preponderance of two-storey building forms, a nearby exception being the new Academy building.
 - *Section 2.2.6* assigns character descriptions to surrounding areas.
 - *Section 2.2.7* sets out the various transport and walking links to the site and to facilities.
 - *Section 2.2.8* is a plan of the present site with contour lines overlaid.
11. A written description of the site and surroundings is in the Statement of Common Ground (SOCG)⁹, with some agreed statements regarding condition and policy;
- *The site has an area of 3.35 hectares, comprising Billet Works, the adjacent Kimberley Industrial Estate and the former Tyco factory, located on Billet Road. Kimberley Industrial Estate comprises low level workshop buildings, a number of which are occupied by car related businesses. A 1970's 5-storey office building is located on the Billet Road frontage and access to the various units is provided from Billet and Kimberley Roads. A further access is provided via an unmade car park to the rear that is accessed from Cheney Row.*
 - *Billet Works is characterised by two storey Victorian warehouse buildings accessed from Billet Road. The site is currently in industrial use, with predominantly two storey warehouse buildings within the site and a retail frontage to Billet Road. Tyco Works, a former 1930's building, has been demolished ahead of development and is accessed from Billet Road. The built fabric of the site has become increasingly dilapidated in recent years. There has been little or no renewal of stock with few prospects for renewal, with almost no investment being directed towards improvements to the existing units. The current appearance of the site detracts from the character and appearance of the wider area. Indeed, the IPPF considers that there has been little or no renewal of stock and, as such, parts of Kimberly/Billet Works are in a poor state of repair with few prospects for renewal.*

⁹ DOC A5

- *The Council recognises these broader issues and this represents a fundamental part of the rationale for the Blackhorse Lane Interim Planning Policy Framework (IPPF). This, in turn, is consistent with the GLA's Industrial Land Capacity (ILC) SPG, which seeks to manage the portfolio of industrial land across London to release underperforming sites, such as the Appeal site, for alternative uses, principally housing.*
 - *The north of the site is bounded by the Cheney Row open space and by playing fields associated by the Walthamstow Academy to the east. Established residential areas lie beyond Billet Road and Kimberley Road to the west of the site. The area to the south is largely characterised by inter war two storey terraced housing with the occasional local business. The street pattern to the west follows a well defined grid arrangement.*
 - *A small portion of the site along the northern boundary adjoining the open land to the north falls within the Lee Valley Regional Park (LVRP). Immediately to the north of the site is an area of open land that is within the Metropolitan Green Belt and the LVRP. The open land to the north west of the site boundary is also designated as a Park (Cheney Row) in the UDP and a Site of Nature Conservation Importance. The land to the east, which is within the Academy School grounds, is designated as playing field land. Premises to the west of the site along Billet Road are designated as a Local Retail Parade, providing a range of neighbourhood services to local residents.*
 - *In terms of transport links, the site is approximately 500m from the junction with the A406 (North Circular Road) Crooked Billet roundabout. Blackhorse Road Underground and Overground station is 1.8km to the south west and Walthamstow Central (Underground and Network Rail) is 1.9km to the south. Three bus routes operate within 640m of the site: 158, W15 and W16, and there is a London Network cycle route 1.9km to the west adjacent to Banbury Reservoir.*
 - *The site is within the Blackhorse Lane Interim Planning Policy Framework (IPPF) Area, which identifies it as being appropriate for mixed-use development comprising residential uses with a commercial frontage (Policy BHLP6).*
 - *Furthermore, the site is located within the Blackhorse Lane Area of the Borough which forms part of the Government's London-Stansted-Cambridge-Peterborough Growth Corridor as well as being situated within the Upper Lea Valley Opportunity Area as identified within the London Plan. The site is also within close proximity to a number of regeneration areas which are undergoing major change, including the Lower Lea Valley, the site of the Olympic Park and Tottenham Hale.*
12. The SOCG section concluded with this agreed statement;
- *In view of the above-mentioned policy designations, the site is identified as being in need of significant regeneration and is recognised as being a key source of the delivery of housing.*
13. The descriptions in both documents appear accurate and the various features referred to were identified during the site inspection which included views of the site from some distance. It was not considered necessary to enter any of

the premises presently on the site in view of the agreement over their need for redevelopment. Particular features pointed out were;

- The variety of activities taking place on the site.
- The number of access points to the roads surrounding the site.
- The condition of the Cheney Row car park.
- Fly tipping.

14. Traffic conditions on the main Billet Road were witnessed during unaccompanied site visits on two peak hour mornings and one peak hour evening, in addition to during the accompanied midday site inspection. There were tail-backs from the A406 North Circular Road interchange and some stationary traffic and queues in both directions caused by frequent use at school times of the light controlled crossing outside the Academy to the east.

Planning Policy

15. The Development Plan includes The London Plan 2008¹⁰ and the London Borough of Waltham Forest Unitary Development Plan 2006 (UDP)¹¹. The policy context of the site is shown on the Proposals Map within the UDP;
- Site identified as MURA2 cross-hatched purple as a 'Mixed Use Regeneration Area'. That designation is agreed¹² to be no longer relevant for development control purposes having been superseded by the Blackhorse Lane Interim Planning Policy Framework.¹³
 - The Cheney Row car park and part of the rear of the Billet Works is within the black-dashed boundary of the Lee Valley Regional Park (LVRP).¹⁴
 - The open land of the Cheney Row recreation ground to the north (PK10) is designated as a Principal Site of Nature Conservation Importance and as a Park.
 - The land to the north and east (F22 and F23) is designated Playing Field.
 - PK10, F22 and F23 are all within the Metropolitan Green Belt and it was agreed at the Inquiry that this designation does not follow the same line as the Lee Valley Regional Park boundary in the vicinity of the site. The site is partly within the LVRP but none of it is within the Green Belt. There are some references in appeal documents to Metropolitan Open Land but this is agreed to be in error for Green Belt.
16. *The London Plan*
- *Policy 4B.1 Design Principles for a Compact City* seeks to ensure that developments maximise the potential of sites; promote high quality inclusive design and create or enhance the public realm; contribute to

¹⁰ CD3.1

¹¹ CD4.1

¹² Document A5, SOCG section 5.8

¹³ CD4.2

¹⁴ See detail CD7.4

adaptation to, and mitigation of the effects of climate change; respect local context, history, built heritage, character and communities; provide for or enhance a mix of uses; be accessible, usable and permeable for all users; be sustainable, durable and adaptable in terms of design, construction and use; address security issues and provide safe, secure and sustainable environments among other requirements.

- *Policy 4B.3 Enhancing the Quality of the Public Realm* aims to ensure that public realm is accessible and usable for all.
- *Policy 4B.10 Large-scale Buildings – Design and Impact* All large-scale buildings including tall buildings should be of the highest quality design and in particular; be suited to their wider context in terms of proportion and composition and in terms of their relationship to other buildings, streets, public and private open spaces, the waterways or other townscape elements; be attractive city elements as viewed from all angles and where appropriate contribute to an interesting skyline, consolidating clusters within that skyline or providing key foci within views; pay particular attention, in residential environments, to privacy, amenity and overshadowing; be safe and secure in terms of their own integrity and the safety of occupiers; be appropriate to the transport capacity of the area ensuring adequate, attractive, inclusive and safe pedestrian and public transport access; provide high quality spaces, capitalise on opportunities to integrate green spaces and planting and support vibrant communities both around and within the building; and, where appropriate, contain a mix of uses with public access, such as ground floor retail or cafes.
- *Policy 3A.3 Maximising the Potential of Sites* seeks to ensure that development proposals achieve the maximum intensity of use compatible with local context, the design principles in Policy 4B.1 and with public transport capacity. Boroughs should develop residential density policies in their DPDs in line with this policy and adopt the residential density ranges set out in Table 3A.2 and which are compatible with sustainable residential quality. That Table is a Density Matrix in habitable rooms per hectare (HR/ha) according to the location of the site and its public transport accessibility (PTAL) rating.
- *Policy 3A.9 Affordable Housing Targets* states the Mayor's strategic target for affordable housing provision that 50 per cent of provision should be affordable and, within that, the London-wide objective of 70 per cent social housing and 30 per cent intermediate provision, and the promotion of mixed and balanced communities. Local policies should set an overall target for the amount of affordable housing provision over the plan period in their area, based on an assessment of all housing needs and a realistic assessment of supply.
- *Policy 3A.10 Negotiating Affordable Housing in Individual Private Residential and Mixed-use Schemes* Boroughs should seek the maximum reasonable amount of affordable housing when negotiating on individual private residential and mixed-use schemes, having regard to their affordable housing targets adopted in line with Policy 3A.9, the need to encourage rather than restrain residential development and the individual circumstances of the site. Targets should be applied flexibly, taking account

of individual site costs, the availability of public subsidy and other scheme requirements.

17. *Unitary Development Plan*

- *Policy SP1 The Environment* The council will seek to maintain and enhance the natural and built environment of the borough. Among requirements are that new developments or changes of use enhance rather than detract from their surroundings; continue to protect the Green Belt and Metropolitan Open Land from incompatible development and; conserve and enhance open spaces within the urban area which have an important role to play whether for amenity reasons, for nature conservation, or for recreation and community purposes.
- *Policy SP2 The Environment* New development will be expected to make a positive contribution to improving the quality of the urban environment in Waltham Forest. It should be designed with proper consideration of key urban design principles relating to; townscape (local context and character), urban structure (space and movement), urban clarity and safety, the public realm (landscape and streetscape - including public art), wildlife habitat, architectural quality, and sustainability.
- *Policy SP8 Employment* Development of new sites for employment or mixed uses will be welcomed where there is no conflict with the environmental or other policies of the plan.
- *Policy SP9 Employment* seeks to ensure the availability of a skilled local labour force to assist the successful operation of its planning policies. It will identify and support measures to enable disadvantaged groups within the community to fulfil their potential in the local economy.
- *Policy SP13 Housing* requires a high standard of design in particular where developments at high densities are proposed, and ones that are compatible with and respect the character of its surroundings.
- *Policy SP17 Urban Regeneration* support will be given to proposals which contribute to the regeneration of those areas of the borough where investment is required.
- *Policy SP18 Planning Obligations* will be sought in order to facilitate development.
- *Policy PSC1 New Residential Development* sets out standards for access, parking and open space.
- *Policy PSC2 New Residential Development* is specific to the provision of secure and usable private amenity open space in all new residential developments. In proposals for family accommodation private garden space should be provided for the exclusive use of residents. Where balconies are to be provided they should be designed, if possible, to enable them to be used without overlooking adjacent properties
- *Policy INB11 Units for Small Businesses* promotes where appropriate the provision of suitable workspace accommodation.

- *Policy INB13 Training Needs* seeks obligations relating to local training and employment of local labour in large scale developments
- *Policy INB14 Workplace Nurseries* are encouraged
- *Policy HSG4 Mixed Use Schemes - the Urban Renaissance* seeks to ensure new housing schemes (including mixed use schemes with an element of housing) are well designed and make a contribution to promoting urban renaissance and quality of life.
- *Policy HSG5 Redevelopment of Redundant or Underused Land and Buildings for Housing* seeks to maximise the amount of housing particularly on previously developed land and the highest intensity will be sought in areas with the highest PTAL ratings and access on foot to facilities.
- *Policy HSG6 Affordable Housing Target From All Sources* The Council will negotiate for the maximum reasonable amount of affordable housing in new housing developments. It will aim to hit the Mayor's overall target of 50% of the total of new housing from all sources.
- *Policy HSG9 Size of Units* encourages the provision of a range of dwelling sizes and types for both family and non-family households
- *Policy HSG10 Housing for Disabled People* seeks to achieve inclusive design and accessibility in all new housing developments and to ensure that; all new housing is built to 'lifetime homes' standards, and 10% of new housing is designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users.
- *Policy GCS2 Retention of Facilities and Creation/improvement of Facilities as part of Mixed Use Schemes* The Council will encourage new or improved community facilities to tackle social exclusion.
- *Policy TSP5 Cycling* states measures to support cycling as a healthy and efficient form of transport.
- *Policy TSP7 Car Free/reduced Car Owning Residential Developments* sets out the locations and circumstances for reduced parking provision or no provision at all.
- *Policy TSP9 Developments with Significant Transport Implications* concerns the need for good access to public transport, improvements secured by obligations among other things.
- *Policy TSP17 Parking* seeks to ensure that proposals should make the appropriate provision for off-street parking.
- *Policy ENV1 Urban Open Space* guards against the loss of such open space.
- *Policy ENV13 Lee Valley Regional Park* sets out the relationship of the Park Authority, and among other things seeks to create an accessible and permeable integrated visitor attraction to serve the region which includes local communities.
- *Policy ENV16 New Open Spaces* the improvement of the distribution of parks and open space provision will be sought by providing new parks and open spaces wherever opportunities arise, particularly in areas of open

space deficiency; and seeking, where appropriate, the provision of suitable open spaces in proposals for major new residential developments.

- *Policy BHE1 Urban Design* Proposals will be permitted if they are compatible with or improve their surroundings in various regards; harmonise with the townscape and general character of the areas in which they are set; and provide appropriate facilities for the benefit of occupiers and visitors.
- *Policy BHE2 Urban Design* New developments must be of a high standard of design in accordance with urban design objectives and planning permission will not be granted for poorly designed proposals
- *Policy BHE3 Impact on Neighbouring Properties* seeks to ensure that proposals do not harm the local environment or the amenity of neighbouring occupiers.
- *Policy BHE6 High Buildings* sets requirements for the erection of buildings or other structures that significantly exceed the height of their surroundings, including the relationship to other high buildings or prominent features in the area, the architectural quality, not having significant disadvantages to its surroundings, and the site being large enough to provide an appropriate setting.
- *Policy BHE7 Community Safety/designing Out Crime* requires development layouts to be designed to reduce the opportunities for crime by incorporating the aims and objectives of both 'secured by design' and 'designing out crime' concepts, and lists particular concerns on surveillance, parking and access.
- *Policy WPM9 Air Quality* requires information to be provided to allow a full impact assessment to be made.

18. *Supplementary Planning Documents and Other Guidance*

- *Blackhorse Lane: Fulfilling the Potential, Interim Planning Policy Framework (2006)*¹⁵ (IPPF) This document sets out a planning framework intended to support and encourage a transformation of the area over 10 years.

Policy BHL3 Improved Access is sought to the Lee Valley Regional Park.

Policy BHL4 states that new development near the Lee Valley Regional Park should offer a high standard of design where visible from the park and improve access links and views of the park.

Policy BHL6 Housing tenure, type and density In line with Unitary Development Plan Policies, it is the council's intention to support a mixture of housing sizes and types across the area in order to reflect the position, public transport accessibility and surrounding townscape of each site and the housing needs of the borough and London more widely. In particular, sites further from Blackhorse Road Station will be expected to include a proportion of larger homes with 3 or more bedrooms and gardens. The council will apply targets relating to affordable housing proportions and mix

¹⁵ CD4.2

from the Unitary Development Plan and the forthcoming Interim Planning Policy Guidance on Planning Obligations.

Section 12.4 Billet/Kimberley (Site BHL7) sets out a vision for a new residential-led, mixed use development which is well placed next to open space and near a number of local schools. The reference to a Planning and Design Brief for Sutherland Road is a misprint and should refer to this site. Key development and design issues include a confirmation that Policy BHLP6 applies, being suitable for a higher proportion of family housing.

Further IPPF policies are detailed in the SOCG Section 5.9 to 5.21.

- *Urban Design Supplementary Planning Document* (February 2010)¹⁶ Contains standards on density from London Plan Table 3A.2. Sets out urban design principles such as layout, movement, building form and detailing, landscaping, parking and public areas.
- *Annex to Planning Obligations Supplementary Planning Document: Blackhorse Lane Planning Obligations Strategy* (February 2009)¹⁷ Sets out the objectives of the IPPF. The proposed developments within the area are in the context of significant proposed improvements to local infrastructure such as schools, transport and public space. This document also details the funding for those improvements and the method for calculating the tariff.
- *Planning Obligations Supplementary Planning Document* (2008)¹⁸ Details the legislative framework and policy guidance and general principles. Lists the scope of obligations followed by details of each category such as housing, education and transport.
- *Sustainable Communities Strategy* (2008)¹⁹ sets out the Council's aims and objectives for delivering sustainable communities which include: managing population growth and change by improving housing quality and choice; providing more jobs; tackling deprivation; responding to climate change; promoting social inclusivity; creating wealth through improvements to access to training and jobs; and retaining more wealth in the borough by encouraging people to stay by improving the design and quality of public spaces and improving community safety. All of these ambitions will be affected by the quality of urban design in future development
- *Lee Valley Regional Park Authority Park Plan* (2000)²⁰. Part of the application site is within the boundary of the Park and therefore the Park Plan is a material consideration in considering this planning application. Policy LS2.1 on ensuring new development is sympathetic to its locality and the image of the park, and Policy LS1.6 on visually attractive edges with buffer zones, are relevant.

¹⁶ CD4.5

¹⁷ CD4.4

¹⁸ CD4.3

¹⁹ CD11.5

²⁰ CD7.1

- *Core Strategy Preferred Options Stage*²¹ (January 2010) The Core Strategy represents the principal framework for the Council's LDF and when adopted will represent the spatial strategy for the Borough. The Council's emerging Core Strategy (preferred options stage) sets out the Council's forthcoming policy context
- *Waltham Forest Housing Strategy 2008 - 2028*²² This document sets out the Council's strategic housing requirements for the Borough between 2008 and 2028.

19. *National Planning Policy* is contained in the following;

- Planning Policy Statement 1 "*Delivering Sustainable Development*" (PPS1)
- Planning Policy Guidance Note 2 "*Green Belts*" (PPG2)
- Planning Policy Statement 3 "*Housing*" (PPS3)
- Planning Policy Statement 4 "*Planning for Sustainable Economic Growth*" (PPS4)
- Planning Policy Statement 12 "*Local Development Frameworks*" (PPS12)
- Planning Policy Guidance Note 13 "*Transport*" (PPG13)
- Planning Policy Guidance Note 17 "*Planning for Open Space, Sport and Recreation*" (PPG17)

Planning History

20. This is set out in the Statement of Common Ground as follows;

21. *Billet works and Kimberly Industrial Estate has a long and complicated planning history relating to the existing uses on the site, their upgrade, change of use and refurbishment. There is no record, however, of any application which proposed the comprehensive redevelopment of the site, either in its entirety or in part. It is therefore considered that there is no planning history of relevance to the determination of this appeal. Nonetheless, for reference purposes, the most recent applications to be submitted proposing development at the site are listed below:*

- 2003/1359 – *Erection of two storey containers at rear – withdrawn*
- 2005/0458/ADV – *Retention of an internally illuminated fascia sign – Approved (2006)*

22. *It is, however, also pertinent to note that DPP (on behalf of Appellant) submitted an application for a Screening Opinion for the entire site on the 30th June 2008. The details of this application are as follows:*

- 2008/1124/EIA – *Screening opinion for mixed use development, involving provision of residential, retail, café/restaurant, nursery, healthcare/local community centre facilities – Decision issued 29/9/08 confirming EIA is not required.*

²¹ CD4.6

²² CD11.1

23. There does not appear to be any merit in looking further at the planning history concerning the present uses and buildings in view of the proposals for their wholesale removal and the new uses.

The Proposed Development

24. The Core Document "*Drawings and Schedules Revised Scheme F*"²³ has been updated to show the agreed appeal proposals. The appeal scheme is referred to as Revision G with the addition of five unnumbered drawings concerning wheelchair accessible units, that amendment affecting only internal arrangements. The Design and Access Statement (DAS)²⁴ details the design rationale and resulting layouts and has an Addendum revised in February 2010.²⁵
25. *Demolition* In addition to the previous removal of the Tyco Works buildings, leaving a cleared site adjacent to the Academy, the remainder of the buildings would be removed and many of the access points stopped-up.
26. *Generally* The cleared site would be developed in nine blocks, identified on the drawings as Blocks A to J (I is not used). Blocks A, B, C and D would run from the south-west corner at the Kimberley Road/Billet Road junction to the rear of the site on the present Cheney Row car park. The Linear Park would separate these blocks from Blocks E and F and would extend from Billet Road to the rear adjoining the open space to the north. Blocks E and F would occupy the central part of the site and there would be a further open circulation area running from front to back between these blocks and Blocks G, H and J which would be set alongside the eastern boundary with the Academy. In addition to these north-south through routes there would be two east-west links continuing the line of Kimberley Road and between Block F and the open space of the Academy playing fields. Vehicular access would be from Billet Road for servicing and the main residential car parking, with access to the car park under Block A being from Kimberley Road, and to Block D from Cheney Row. Although the appeal scheme has changed in some aspects, key references from the DAS to explain the rationale behind the proposal are;
- *Section 4.1* description of proposals and Masterplan
 - *Section 4.2.1* uses, with restaurant/café, the Forum, healthcare and retail uses along the Billet Road frontage, a crèche to the rear of Block F and residential uses in Blocks A and G at the frontage and in other blocks to the rear or above the commercial and healthcare uses.
 - *Section 4.2.1* indicates the mix within the residential areas between private, social rent, shared ownership etc. The appropriate mix is a matter of disagreement between the parties.
 - *Section 4.3.1* tables density and occupancy including anticipated child numbers.
 - *Section 4.4.2* detailing the street pattern and active frontages.

²³ CD8.1

²⁴ CD5.1

²⁵ CD5.2

- *Section 4.5.1* sets out the heights of buildings within the site, from single storey parts to maximum heights of 7 storeys.
 - *Section 4.6* details 'Character Areas' (The Boulevard, The Linear Park, The Green and The Heartland) comparing the Linear Park to other open spaces in London.
 - *Section 4.7* proposals a palette of materials and colours
 - *Section 5* provides more detail of the landscaping of the various areas.
 - *Section 6* shows the vehicular and pedestrian access and the nature of circulation around the site, where there are shared or exclusive use areas.
 - *Section 7* indicates delivery and servicing routes, including the route of refuse lorries through the Linear Park. Information on the undercroft car park security is included.
 - *Section 8* sets out the proposals for energy efficient design and on-site generation of heat and power.
27. *Block A* has frontages to Kimberley Road, Billet Road and the Linear Park and comprises a ground floor of residential units to three sides with the café and Forum building entrance at the fourth side/corner. On the first and second floors the residential units cover all four sides with a courtyard in the centre, with the Forum occupying one corner, and above that the cover of residential units reduces so that the top, fourth, floor is occupied by the Forum on the south-east corner and six residential units along the east side. An undercroft parking area extends under part of the block and the adjacent open area, accessed from Kimberley Road.
28. *Block B* continues the line of Kimberley Road north-side and turns to have a frontage onto the Linear Park, with private and shared amenity space to the inside of the angle. The block is entirely residential and the cover reduces at the third floor and slightly again to the top, fourth, floor.
29. *Blocks C & D* are again wholly residential and occupy the corner at the north end of the Linear Park turning to abut the Cheney Row open space. They comprise two and three storey houses.
30. *Block E* is sited along the Billet Road frontage with healthcare facilities, shops and a larger store with servicing behind. The healthcare is also on the first floor in the south-west corner, the remainder of the landscaped courtyard over the servicing being surrounded by residential units. Upper floors have progressively less cover of residential units with the highest level, the sixth floor, having a cluster of 4 units on each of two corners. Undercroft parking is entered under this block but extends in separate units under other blocks.
31. *Block F* is a courtyard block of residential units on all sides up to and including the fourth floor, the fifth floor, having two sides continuing and the top floor, the sixth, being a cluster of 4 units on the north-west corner.
32. *Block G* fronts onto Billet Road at the south-east corner of the site, and has four floors of residential units with the top floor reducing to approximately half the area and having a further 2 units.

33. *Block H* occupies the east edge of the site adjacent to the Academy grounds and has residential units on six floors with the top floor being only 3 units to the north end.
34. *Block J* is at the north-east corner of the site, having residential units on five floors, reducing to a 'penthouse' style on the top floor of 2 units.
35. *Landscaping* is to be provided as a Linear Park linking Billet Road to the Cheney Row open space, as an area between Block F and the playing fields and open space to the north, and as courtyards and accessible areas within and around residential and mixed use blocks.
36. *Vehicular Circulation Ground Level* one point of access would be from Billet Road to the main undercroft parking area and the servicing area to the retail and medical units in Block E, and to surface parking and access routes around the perimeter of Block F. That above ground route would provide access for emergency vehicles and refuse vehicles as well as a certain amount of parking for the disabled people living in the residential blocks, and would be shared surfaces also used by pedestrians and for relaxation. Another access would be from Kimberley Road serving the separate undercroft car park under Block A. Lastly would be a minor access off Cheney Row serving the units in Block D.
37. *Undercroft Car Parking* nine individually segregated parking areas would be provided at a lower level. Area 1 is the one served off of Kimberley Road and being partly under Block A and partly under the access between it and Block B. A one-way ramp with traffic control would provide vehicular access and two lift and stair shafts would provide pedestrian access direct into the residential block, one serving up to the second floor, the other being in the part with a third and fourth floor of accommodation. The remaining eight parking areas would be accessed from a two-way ramp under Block E and would extend under, and have lift and stair access direct to, Blocks E and F, with pedestrian access cores giving access near to Blocks B, C, D, H and J. It is proposed to install identity-tag access systems, to prevent tailgating, monitored CCTV, good lighting and are designed to achieve the Park Mark Safer Parking standard²⁶. The biomass storage area is also at this level.

Other Agreed Facts

38. In addition to those matters already referred to (the main issues, the make up of the 'final scheme – revision G', the description of the site and surroundings, planning history, relevant planning policy) the Statement of Common Ground covers the following;
 - There is a difference between the parties over the methodology regarding the provision of private amenity space.
 - The Council agrees that reasons for refusal 6 on Transport, 9 on landscaping and 11 on air quality, can be dealt with by way of conditions.
 - A list of conditions was put forward and was discussed at the Inquiry.

²⁶ DOC12i Metropolitan Police Appendix 2

The Case for the Council

The material points are;

39. The site is of strategic importance and requires a high standard of scheme to be delivered. Development is supported in principal and the site is one of only 5 that can provide more than 500 units, being the largest in the Blackhorse Lane area and so should play a full part in delivering the objectives of the IPPF. The proposal was refused by the Committee for 14 reasons as a cumulative assessment of the concerns in each case rather than an objection on each point alone.²⁷
40. The Council has been supportive of increased building heights, and there are a number of positive aspects; the integration with the surrounding street network, and the provision of clear, legible routes into and around the site; the layout of buildings with active frontages; and the generally clear separation of public and private spaces. However, Block E is located at the most publicly prominent part of the site but has a confusing and incongruous mixture of heights and would appear cluttered. The height and arrangement would be out of context with the nearby and opposite two storey properties on Billet Road. Block F is overly bulky and dominant fronting the open space of the Regional Park and the Green Belt to the north. Its lack of articulation would make it appear as a 'wall of development' and this feature would not be much reduced by the mounding and planting.²⁸
41. The scheme is proposed to a high density, in excess of the London Plan guidance and this density has put pressure on the quality of both the public and private space provision. The public transport accessibility of the site is low (PTAL 2 with the possibility of this being raised to 3). Of the sites in the Blackhorse Lane area, this is the furthest from the tube station and the bus ride and walking distances are lengthy²⁹. Neither is there support for this in advice in *'Recommendations for Living at Superdensity'*.³⁰
42. It is considered that the IPPF requires a higher proportion on 3+ bed units on sites such as this, further from the tube station than those closer. In addition the need borough-wide is for a higher proportion of the large family units with the Housing Strategy identifying a requirement for 50% 3-bed and above. This level of provision is also supported in the London Plan and its Housing SPD, and a requirement to reflect local need is contained in national guidance in PPS3. The appeal scheme provides an acceptable mix within the affordable housing proposals, but the market mix of around 16.5% of the large units is considered too little.³¹
43. At higher densities the quality of amenity space is particularly linked to the quality of the development. The Council considers that the ground floor units with their own access and private gardens should be assessed as 'family houses' and as such many of these units have insufficient private amenity space. It is immaterial whether they have their own roof, or as in these cases,

²⁷ DOC2i Jonathan Price POE Section 6

²⁸ DOC3i Ron Presswell POE Section 3

²⁹ DOC2i Jonathan Price POE Section 7.1 – 7.15

³⁰ CD11.8

³¹ DOC2i Jonathan Price POE Section 7.16 – 7.39

have another unit above them, they should be considered as family houses and the required amount of space assessed as such. A substantial proportion of the upper units fail to provide the size and/or area sought in Council guidance for private balconies, and the shortfall in the family sized units is contrary to policy in that they are not usable for the numbers of residents involved. The scheme also has an under-provision of private communal amenity space that might otherwise compensate in part for the under-provision of truly private space. The site is adjacent to public open space at Cheney Row and provides open space within the scheme in the Homezone and the Linear Park. The Cheney Row open space is in poor condition but could be improved through planning contributions across the whole IPPF area. Failure to secure sufficient funds, if the appellant's approach is adopted by other developers, would leave this space unable to fully provide for the reduced amenity space within the scheme.³²

44. The Homezone would also be used by up to 500 car movements per day and the Linear Park would also be used by refuse trucks and service vehicles as well as being a through route for pedestrians and cyclists. Neither area is considered to provide adequate compensation for shortcomings elsewhere.³³
45. Whilst the Metropolitan Police have provided the evidence on the car parking provision and crime reduction, the Council endorse this; there remains concern as to long term funding for the security measures and the mix of units, weighted in favour of smaller units, is unlikely to provide the level of natural surveillance required to reduce crime.
46. The affordable housing offer changed from that reported to Committee, and that now proposed. The present offer is a minimum of 20% plus a cascade to allow a greater proportion to be delivered if the economic situation of the scheme allows. Given the strategic importance of the site and the reliance on larger sites for delivery of affordable housing, the Council would not accept anything short of 40% affordable housing. As a result the Council would prefer to wait until the market can provide the required 40%, as once built, that opportunity is lost forever. It is accepted that the cascade mechanism may provide the higher figures, but even the present 20% offer is unviable and there is no certainty of grant being available.^{34, 35 & 36}
47. The comprehensive regeneration of the Blackhorse Lane area was premised on significant improvements to the infrastructure such as schools, transport and public space. The *Planning Obligations Supplementary Planning Document: Blackhorse Lane Planning Obligations Strategy* sets out an area-wide approach to contributions to ensure that all sites contribute to the improvements. The total envisaged development of 2000 residential units and the release of industrial land was only considered acceptable in planning terms if the improvements were carried out. The piecemeal approach that would result from the appellant's proposals with regard to the S106 undertaking would not

³² DOC2i Jonathan Price POE Section 7.40 – 7.83

³³ DOC2i Jonathan Price POE Section 7.140 – 7.158

³⁴ DOC1i Andrew Jones POE Section 1 and DOC1ii Andrew Jones Rebuttal POE

³⁵ DOC2ii Jonathan Price Supplementary POE

³⁶ DOC4i Peter Wright POE

mitigate the effects of development and would not accord with S122 of the CIL Regulations.³⁷

48. The original scheme included healthcare facilities which it is agreed are not likely to be provided on site as the PCT is not looking to locate at the site. As such provision was seen as a benefit of the scheme and a justification for the density, the failure to provide the facilities should be seen as a dis-benefit, even though there is no specific policy requirement. The nearest surgery is stated to be a 15 minute walk away.³⁸
49. The scheme proposes a crèche and community facilities but there are doubts over the long term funding for these. The continued provision is essential given the numbers of new residents in an area where there is a lack of existing facilities. The suggestion that the Council could fund this is not realistic if the S106 contributions do not provide for community facilities generally. Service charges were another suggestion but these, as well as funding the car park security, parking, management and planting may lead to prohibitive levels of charge.³⁹
50. Whilst the correct Notices were served at the time of the application⁴⁰, it should not be assumed that the area of land owned by the Council would be released for sale to the appellant and therefore that the development as proposed would be fully built.⁴¹

The Case for the Appellant

The material points are;

51. The site and its buildings are presently underused and have a detrimental impact on the character and appearance of the area and the amenities of local residents. The site is located within the London-Stansted-Cambridge-Peterborough Growth Corridor, within the Lee Valley Opportunity Area and is identified as a redevelopment site in the Blackhorse Lane area⁴². The IPPF details key development and design issues for the site. It is on the edge of an established residential area and has good links to the rail and tube network. The Council's Strategic Housing Land Availability Assessment (SHLAA)⁴³ identifies the site as being capable of providing 541 residential units. Although that number is reduced to 500 in the Annual Monitoring Report (AMR)⁴⁴, the appeal proposal is compatible with expectations.
52. The Linear Park provides a link between the main road and the open space to the north, and has a scale and quality that does not match the narrow streets in the vicinity. This is deliberate and ambitious, and requires a scale of buildings to match the space itself to create an appropriate level of enclosure

³⁷ DOC1i Andrew Jones POE Section 2

³⁸ DOC1i Andrew Jones POE Section 3

³⁹ DOC1i Andrew Jones POE Section 4

⁴⁰ DOC WRB1

⁴¹ DOC C14 plan attached

⁴² DOC10i Alastair Crowdy POE Section 1

⁴³ CD11.3

⁴⁴ Document C9

- and definition. Public-use buildings at each end will provide hubs of activity within and at the entrance to the Linear Park⁴⁵.
53. There are two storey properties to the west and new development near them will be two storeys high laid out as terraces. The IPPF suggests development by the open space should provide surveillance over it and the higher block there does that. The eastern boundary abuts the substantial Academy buildings and responds to their height also. Along Billet Road there is an appropriate scale and landmark features. Car parking is provided in line with the IPPF aspiration to limit surface parking. Landscaping and public realm provision will be to a high quality. The density will ensure the best and most efficient use of land in urgent need of regeneration.⁴⁶
54. The IPPF sets six key development and design aspirations and the scheme responds to these; it is residential-led mixed use, incorporates flexible commercial space, provides a new access to the open space to the north, improves the permeability and access through the site, creates a safer pedestrian environment on the main road, and provide a high quality public realm integrating the development with the existing fabric of the area.
55. With regard to Block E, increased height signposts the entrance to the site, the retail uses are signalled by a different architectural treatment with the accommodation above set back, creating a convincing arrangement that responds to its surroundings and is not confused or cluttered as claimed. Block F has a relatively consistent massing with a landmark corner to the Linear Park, and the colour and treatment of the upper floors will let the foreground appear larger. It will not harm the openness or amenities of the Green Belt.⁴⁷
56. There is strong policy support for the density chosen, in national guidance on making best use of land, within the SHLAA, and the latest AMR. The London Plan does refer to lower density but this is a guide only to be considered on the circumstances of the case. CABE support the density along with the mix, scale and massing, as did the GLA. The density is appropriate to the location, although a low PTAL rating, the site is accessible to services such as schools, shops and employment.^{48 & 49}
57. The mix of housing proposed has been the subject of discussion with the Council at design and application stage. There is no development plan support for the Council's stance and the IPPF only requires a 'higher proportion of family housing' with no definition. The scheme proposes a higher proportion than assumed in the Blackhorse Lane Planning Obligations Strategy, 20% against 15.5% in that document.^{50 & 51}
58. The amount of amenity space had been considered acceptable by the same officers in writing the Committee report recommending approval. There is a difference of opinion over what constitutes a 'house' and a 'flat' the former

⁴⁵ DOC6i Andrew Williams POE Section 4

⁴⁶ DOC6i (as above) and DOC5i Georgina Holden POE

⁴⁷ DOC6i (as above)

⁴⁸ DOC10i Alastair Crowdy POE Section 6.26 – 6.40

⁴⁹ DOC7i Joseph Ellis POE Section 5

⁵⁰ DOC10i Alastair Crowdy POE Section 6.58 – 6.65

⁵¹ DOC10iv Alastair Crowdy Supplementary POE

- requiring 50M² and the latter 5m². The units in question are on the ground floor with their own front doors, but are part of a flatted development and should be considered either maisonettes or duplex units, sharing amenity space with others in the same block. Balconies are required to provide private space that is not overlooked, where practical, and where provided should be of a sufficient size and shape to be usable for residents. Sizes are stated as guidance. The provision is appropriate to the development.^{52 & 53}
59. The provision of basement car parking is in line with the IPPF with the amount of surface parking kept to a minimum. It is designed to be safe and secure and is split into several smaller car parking areas. The Metropolitan Police's concerns appear to be more for the long term case, but the appellant is aware of the need to have a long term regime in place.⁵⁴
60. It is claimed that the scheme has too many smaller units which will not provide the degree of overlooking of public areas and surveillance afforded by larger family units and that crime will result. However, all public areas are overlooked and there is no evidence that larger units would naturally provide a greater degree of surveillance.^{55 & 56}
61. The Council's concerns over the amount of car parking were not pursued, but the retail, medical and other uses are assumed to be mainly for residents of the area who would walk, and a parking management plan can be agreed. Only a limited number and frequency of vehicles would use the areas north of the car park entrance and the highways improvements would safely accommodate the use. 61 spaces would be accessed through Kimberley Road and local residents are concerned at this. This use would equate to a vehicle every 2 minutes in the peak and would replace the current vans and lorries gaining access to the industrial uses.⁵⁷
62. There is a strategic target of 50% affordable housing subject to viability having regard to the need to encourage rather than restrain development. The Council have accepted in the Preferred Options document that a maximum Borough-wide figure of 20% is deliverable in the current market. Tested against the GLA toolkit the scheme is not presently viable on the 20% rate, but the Council seek 40%. On that basis no development will be possible on the Borough's important housing sites and the 5 year supply of housing land cannot be said to be met. The stated surplus of 362 units would disappear if the appeal site's 500 unit capacity set out in the AMR does not come forward. Appeal decisions⁵⁸ relied on are not comparable and did not propose an acceptable claw-back. A grant of permission now, even when 20% is not viable, is important so that when an upturn arrives, action can be taken quickly.^{59 & 60}

⁵² DOC10i Alastair Crowdy POE Section 6.41 – 6.53

⁵³ DOCA3 and DOC5i Georgina Holden POE Section 6.17 – 6.29

⁵⁴ DOC10i Alastair Crowdy POE Section 6.54 – 6.57

⁵⁵ DOC10i Alastair Crowdy POE Section 6.58 – 6.65

⁵⁶ DOC5i Georgina Holden POE Section 6.30 – 6.43

⁵⁷ DOC7i Joseph Ellis POE Section 6

⁵⁸ DOC2ii attached to Jonathan Price Supplementary POE

⁵⁹ DOC9i Anthony Lee POE Section 4

⁶⁰ DOC10i Alastair Crowdy POE Section 6.72 – 6.89

63. An undertaking has been presented with a sum that was acceptable to officers, but lower than the Council's tariff. The level offered is in line with the CIL Regulations, being necessary to make the development acceptable, directly related to the development and reasonably related in scale and kind. The tariff adopted prior to the Regulation includes items that are necessitated by all development in the IPPF area and these are included in the undertaking. Other items are irrelevant to the appeal scheme or cannot be said to be necessitated by it and are not included, or are included at a *pro rata* level.^{61 & 62}
64. The Council did not pursue the ninth reason for refusal and the quality of the landscaping would not be adversely affected by the underground car park.⁶³ Air quality concerns can be dealt with by condition.⁶⁴
65. The Linear Park and other areas would be shared to a certain extent between pedestrians and vehicles, but the level and frequency of vehicular use would be low and within the levels acceptable for a Home Zone also used for recreation.^{65, 66 & 67}
66. Space was allocated for the Primary Care Trust but during the Council's consideration of the application the PCT confirmed that they were no longer looking at the site. Local Councillors continued to lobby for a change of mind and it was appropriate to continue to show this provision and for the use to receive planning permission. If in the event the PCT do not take up the use, it will be because they have located somewhere else locally, so the provision will still exist for the new residents. Similarly, the Forum building would be provided in line with Council policy and starter funding provided. Long term funding should follow from a facility that is attractive to the market.⁶⁸
67. With regard to the concerns of the Lee Valley Regional Park Authority, the car park has been used as such for a long time and the boundary also takes in areas of the Billet Works that have had built form for a long time. It is within the IPPF area which should override the historic and anomalous park boundary. The proposals will enhance and improve the park, with increased accessibility and permeability, surveillance and improvements to connectivity.⁶⁹

The Case for the Metropolitan Police

The material points are;⁷⁰

68. There will likely be less family occupancy due to many of the units being cramped and not being occupied at the rate assumed, for instance the 2 bed 4 person flats are unlikely to house 4 people. This will result in less street scene activity and consequently less natural surveillance of public areas. This will

⁶¹ DOC10i Alastair Crowdy POE Section 6.90 – 6.96

⁶² DOC9i Anthony Lee POE Section 3

⁶³ DOC5i Georgina Holden POE Section 6.55 – 6.57

⁶⁴ DOC A5 SOCG

⁶⁵ DOC10i Alastair Crowdy POE Section 6.100 – 6.106

⁶⁶ DOC5i Georgina Holden POE Section 6.58 – 6.71

⁶⁷ DOC7i Joseph Ellis POE Section 7

⁶⁸ DOC10i Alastair Crowdy POE Section 6.109 – 6.123

⁶⁹ DOC10iii Alastair Crowdy Supplementary POE

⁷⁰ DOC 12i & 12iii Constable Paul Hawkins POE and Supplementary POE

allow greater freedom for antisocial and criminal behaviour. Paragraph 37 of PPS1 refers to *Safer Places – the Planning System and Crime Prevention* and this proposal fails to accord with at least four of the seven attributes of safe sustainable places.

- facilitating effective surveillance should be a core part of planning-out crime.
 - Places that promote a sense of ownership, respect, territoriality, responsibility and community.
 - Places where the level of human activity is appropriate to the location and creates a reduced risk of crime and a sense of safety at all times.
 - Places that are designed with management and maintenance in mind to discourage crime in the present and the future.
69. Social housing can be designed to higher specifications compared to market housing, and it is recommended that the same high standards be applied to all units, to encourage real levels of street scene activity and effective natural surveillance by residents.
70. The scheme relies heavily on CCTV and effective monitoring. Experience in the past has shown that this reliance does not work long term, after the initial period paid for by the developer. CCTV, particularly in underground car parks, is easily avoided or rendered inoperative through spraying or removal. At best, with the recommended 3 permanent personnel on site 24/7 (as recommended within the proof of evidence supplied to the Inspectorate by Mr Sola), the basement car park is a risk. Given the particularly poor location of the monitoring station even this provision raises doubts as to the effectiveness of such personnel. Police recommend staff should have a clear and unobstructed view of the main car park entrance. At worst there will be an insufficient planning commitment to the long term effectiveness and provision of any proposed management regime and any planning obligation/condition will not be enforced, be neglected or simply forgotten over a period of years. Waltham Forest has high levels of vehicle and street crime and previous underground car park schemes have had to be abandoned.
71. There is a risk of the development having a high proportion of short term tenancies and occupiers, through buy-to-let and the like, added to which is the possibility of people moving out of more central areas due to changes in housing benefit. This will not aid social cohesion and a long term sense of community.
72. Reference has been made to the Sutherland Road development as an example of security and management systems. The Inspector has seen for himself the obvious security failings of this new estate that give serious concerns for the current, short, medium and long term sustainability of the appeal development and its underground car park. Sutherland Road is an East Thames managed development and East Thames has been suggested as a potential registered social landlord for the appeal scheme. In July this year East Thames acknowledged, in their document *'High Density Housing - the Impact on*

*Tenants'*⁷¹ that covered car parking is notoriously insecure. There should be a guarantee of a viable on-site 24/7 staffed management plan for the lifetime of this development that would always achieve the Park Mark award.

The Case for the Lee Valley Regional Park Authority

The material points are;⁷²

73. The Authority is a statutory consultee for any application within or adjacent to its boundaries, which is the case here. All of Block D and approximately 45% of Block F would be within the Park boundary and such a significant incursion is not compatible with the statutory Park designation or the Lee Valley Regional Park Act. The site is widely visible from the Park and the neighbouring built forms are the two storey residential properties to the west and the 2-3 storey Academy to the east. The 86m width and 7 storey height of Block F would be obtrusive and out of character, with this part being within the Park boundary. Vegetation to the north of block D would not adequately soften the boundary, although the two storey block would complement the scale of neighbouring development, however the principal objection of being within the Park boundary remains.
74. The development would be contrary to Park Plan Policies LS2.1 and LS1.6, as well as London Plan Policy 3D.7 and UDP Policies ENV1 and ENV13 due to the adverse effect on the open space. IPPF Policies BHLP3 and BHLP4 would also not be satisfied. Whilst access to the Cheney Row open space would be improved, further improvements would be required in mitigation to overcome the deficiencies of the scheme. The limited provision of private open space will put additional pressure on the Cheney Row open space. Notwithstanding the fundamental objection, the Regional Park would wish to be involved in discussion over the funding of mitigation works if planning permission was granted.

Written Representations and Third Party Submissions

75. A letter dated 12 November 2010 was received from Stella Creasy, Member of Parliament for Walthamstow.⁷³ She supports the Council's refusal of planning permission, making the following points in particular;
 - A 20% provision of affordable housing is insufficient given the degree of housing need in the Borough and if accepted would encourage other developers to ignore the higher requirement.
 - The S106 contributions do not adequately mitigate the pressure put on the Borough's infrastructure.
 - The underground car park could cause crime and deter residents from using the spaces, putting pressure on the surrounding roads.
 - The bulk and scale of the buildings would be out of character to the surroundings.

⁷¹ DOC12iii added to appendices

⁷² DOC11 Stephen Wilkinson POE

⁷³ DOC3/2

- The area has limited public transport and the scale of the proposal will result in further congestion, such developments are encouraged closer to the underground station.
76. Letters of objection were received by the Planning Inspectorate in response to the Council's notification of the appeal and included a joint letter speaking for others on Kimberley Road⁷⁴. These were in addition to letters of objection sent to the Council at the time of the application together with two petitions. Submissions were made at the Inquiry by local residents and a Borough Councillor as set out in the list of appearances attached to this Report⁷⁵. The material points are;
- This is a high density development on a condensed area which will put a strain on local schools which are already running out of space.
 - There will be congregation of people at certain points and there is a fear of crime from the underground car park.
 - The transport in the area is poor and the proposed enhancements would not accommodate the increase in people living in the area.
 - The building work will cause noise and disruption.
 - The tall buildings so close to the two storey houses will make the existing residents feel overlooked and enclosed.
 - The use of Kimberley Road as the access for part of the underground car park and for pedestrians and cyclists will cause an increase in traffic.
 - The road is too narrow for vehicles in and out of the car park, and there will be queues of cars waiting to go into the car park through the control barriers.
 - There will be difficulties in emergency vehicles gaining access as a result.
 - The increased traffic will be a hazard for children in Kimberley Road.
 - Those who work from home will have additional traffic noise along the road.

Conditions

77. A total of fifty conditions were agreed between the Council and the appellant and set out in the Statement of Common Ground.⁷⁶ These and any alterations were discussed at the Inquiry. In a number of conditions I have changed the wording to make them true 'condition precedents', and I have added wording to allow for the fact stated at the Inquiry and evident from the unilateral undertaking, that a phased development is envisaged. I consider the conditions accord with the six tests in Circular 11/95; that they are necessary, relevant to planning, relevant to the development to be permitted, enforceable, precise and reasonable in all other respects. I comment below on the resulting conditions which are as set out in Annex A to this Report and are recommended in the event that the Secretary of State allows the appeal;

⁷⁴ DOC13 red folder in Appeal file

⁷⁵ DOC3/1 and DOC3/3

⁷⁶ DOCA5

- *Condition 1*; the application was dated 13 October 2008 and therefore three years would be the correct time.
- *Condition 2*; for the avoidance of doubt and to ensure the proper planning of the area there is a need to state the drawings on which any permission is based.
- *Condition 3 and 4*; the site is in industrial uses or that was its last use in the case of the Tyco Works and there is a risk of contaminants being present. There was some overlap between the two conditions and Condition 3 is now the requirement for the scheme with Condition 4 requiring implementation.
- *Condition 5*; in view of the built up nature of some of the site and the heights of proposed buildings, this is reasonable in order to control the quality of the development.
- *Condition 6*; crime has been an aspect of concern to residents and the Metropolitan Police and a condition is required to ensure compliance with the Secured by Design Award Scheme. I have added an implementation clause.
- *Condition 7, 8, 9, 10 and 11*; use of materials, and hard and soft landscaping would have an effect on the character and appearance of the scheme and on the surrounding area and should be controlled. I have added the need for an implementation and phasing programme to be approved which would then control the timing of both hard and soft landscaping works, and have removed some overlaps within the set of conditions.
- *Condition 12*; energy efficiency and sustainability are benefits offered by the scheme and a condition is required to ensure that the benefits are delivered.
- *Condition 13*; cycle storage is proposed and should be secured by condition.
- *Condition 14*; wheelchair accessible units are proposed and a condition is required to ensure the provision.
- *Condition 15 and 16*; external lighting and pipes fitted to buildings would have an effect on the character and appearance of the scheme and the surrounding area and should be controlled.
- *Condition 17*; The provision of car parking spaces needs to be on a phase-by-phase basis to ensure that at any time the correct parking is made available.
- *Condition 18*; wheel washing facilities are essential having regard to the extent of the development.
- *Condition 19, 20 and 21*; these conditions are required to ensure that the effects of the development are acceptable with regard to habitats and the local water environment. I have added an implementation requirement to Condition 21.

- *Condition 22*; with a phased development and more than one access point it is necessary to ensure that these access points are properly completed prior to occupation of the relevant part of the development.
- *Condition 23*; a scheme setting out proposals for an archaeological investigation is warranted.
- *Condition 24*; provides for the removal of certain permitted development rights, and that is justified in this case.
- *Condition 25*; the scheme has been designed to prevent harmful overlooking and further openings should be controlled.
- *Condition 26 and 27*; these are required to protect the water environment and to protect from flooding.
- *Condition 28 and 29*; the removal and storage of refuse could cause harm to residential amenity and a condition is required to control the detail. However, there appears to be a large area of overlap between the two conditions and I have amalgamated them into a single Condition 28 requiring the Waste and Refuse Management Strategy to include physical works and management.

As a result of amalgamating Conditions 28 and 29, all the following conditions are numbered one less than on the list within the SOCG.

- *Condition 29, 30 and 31*; noise from plant and other sources could cause harm and a condition is required to control the detail. I have added the need for maintenance proposals to be part of the submitted and agreed details in the first condition, and for the Council to approve the Noise Report in the third condition.
- *Condition 32*; access for wheelchairs and pushchairs as well as ambulant disabled people is essential. I have replaced the word 'level' with 'step-free'.
- *Condition 33 to 38*; would provide for control of the amount and hours of operation of the non-residential areas to avoid harm.
- *Condition 39, 40 and 41*; seek to control and provide for vehicular access and parking.
- *Condition 42*; the balconies are a feature of the development and affect the character and appearance of the scheme and the wider area.
- *Condition 43*; the Olympic area is not far away to the south and steps should be taken to avoid transport conflict or an adverse visual effect. I have re-worded the condition to be more precise.
- *Condition 44*; as with condition 33, access and a continued ability to live in the units is desirable. I have replaced the word 'level' with 'step-free'.
- *Condition 45 to 49*; are a series of air quality conditions to ensure that the proposed biomass boiler continues to satisfy requirements whilst providing for the sustainable delivery of energy. I have added an implementation clause to Condition 48.

S106 Undertaking

78. A signed Deed of Unilateral Undertaking⁷⁷ dated 7 January 2011 was presented and it provides for the following;
- Affordable Housing at a minimum of 20% of the habitable rooms with a maximum of 50% to be determined in accordance with a methodology set out. 60% are to be social rented and the remaining 40% intermediate housing with the social rented units being to a stated size mix. A viability assessment is provided for to review the viability of the phases and the development as a whole.
 - Infrastructure contributions at the rate of £4,500 average cost per residential unit, multiplied by the number of units in that phase.
 - Community Forum providing for payment to the operator of the Forum and the approval of a business plan by the Council.
 - Travel Plan, car club scheme, highways works, management, employment and training opportunities, wheelchair unit marketing and business start-up strategy.
79. As aspects of the Undertaking and its compliance or otherwise with the CIL Regulations remain at issue between the parties, this will be addressed as part of the Conclusions in this Report.

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Inspector's Conclusions

80. Having regard to the main issues that I have identified my conclusions are as follows. Numbers in brackets [] refer to paragraph numbers in this Report;

Character and Appearance

81. The existing uses and buildings on the site detract from the character and appearance of the area, they are in poor visual condition, are poorly related to each other and to the residential areas adjoining and in particular present a low grade frontage to the main road in contrast to the recent Academy buildings to the east. Their loss would not cause harm and the cleared site would be of a size that would allow a comprehensive redevelopment including mixed uses in line with the aspirations of the IPPF. That document, as well as the more recent SHLAA, envisages development at a similar density to that which is now proposed. In my considerations on this main issue I place significant weight on the findings of the Commission for Architecture and the Built Environment (CABE), the Design for London 'design surgery' and the contents of the GLA Stage I and II reports with regard to design matters⁷⁸. [11, 39, 51, 53, 56].
82. It appears to me that in order to achieve this level of density, as well as provide open space to relieve the built form and to provide the necessary level of car parking, any scheme is likely to involve placing the car parking other than on the surface, and building residential blocks to a height above ground that is not necessarily reflective of the generally two storey residential surroundings. To do otherwise would not make good use of land and would fail to contribute the numbers of dwellings assumed in policy. That would represent a lost opportunity on what is an important, large strategic site [53, 59].
83. The Council's evidence at the Inquiry focused on Blocks E and F, but it is appropriate to consider the total proposed development. There would be lower blocks (C and D) nearer the existing two storey residential area to the west and Blocks A and B would step down in that direction and would be no higher than five storeys, the higher parts being nearer the centre of the site. Block A would contain the Forum building at the corner of Billet Road and the Linear Park and would form a feature of the development, clearly signalling its non-residential use and its hierarchical importance as a community building. Its form would also provide an entrance to the Linear Park and a point of interest along the main road at the pedestrian crossing, and in views along Wigton Road from the south [53, 55].
84. Blocks G, H and J would adjoin the Academy and would be generally of a similar height to Block A, but with an additional top storey. Height has therefore been controlled where the site abuts existing built form to provide some mediation with the surrounding grain and height of development.
85. Blocks E and F would be higher. Similar to my views on the principal of providing underground car parking and building heights generally, it is appropriate that height should be used where reasonable in order to make

⁷⁸ CD5.4, CD5.4, CD5.5, CD5.6 and CD6.5

- efficient use of land whilst allowing the blocks just mentioned to relate to their immediate surroundings. Blocks E and F are in the centre of the development and their relationship is more closely with the remainder of the blocks east and west, as well as with the main road to the south and the open space to the north. With regard to the relationship with other blocks, this gradually raising height is not abrupt and at the highest is restricted to points at corners [55].
86. Block E would accommodate retail and other uses at ground level facing the main road with those uses clearly obvious through active frontages. The low building height in the centre over such units would be reminiscent of the shopping parade to the west along Billet Road. Either end would be raised residential blocks which link in height to the adjoining blocks. To the west there is a variety of forms and use of materials, with step-backs and reveals, the highest point being to the rear. These forms would provide a partner to the Forum building and a gateway to the Linear Park. To the east there would be a more restrained treatment where the partner is Block G [55].
87. The Council were critical of the treatment of this block and the resulting height, but I consider the articulation and use of materials appropriate to the main road frontage and acceptable in a new development which would inevitably be at a different scale to the long-established residential properties nearby. The delineation of uses, through both window size and layout aids the legibility of the building and the entry points to the development are well signalled by the building form, adding to the permeability of the development and its integration into the existing pedestrian routes in the area, providing an improved access to the open land beyond [40, 55].
88. Block F at the rear is different in its massing, being a full five storeys cover around a landscaped courtyard, with a sixth floor to the west and rear, and a seventh floor to the north-west corner. The architectural treatment is less varied but there remain the strong 'bookend' features and a largely horizontal emphasis between. The upper floors of the central part would be in grey, tending to reduce the impact of this height seen against the sky from the north.
89. It is this Block F that would be prominent from within the designated Metropolitan Green Belt that extends away to the north, the boundary being agreed to be close to but not including any of the appeal site. Paragraph 3.15 of Planning Policy Guidance Note 2 "*Green Belts*" (PPG2) states that the visual amenities of the Green Belt should not be injured by proposals for development within or conspicuous from the Green Belt which, although they would not prejudice the purposes of including land in Green Belts, might be visually detrimental by reason of their siting, materials or design. Block F in particular would be conspicuous from the Green Belt, due to its height and proximity. However, that is true to some extent of the present and former uses of the site and the buildings which still occupy it, or did until the Tyco Works were demolished. Whilst this is properly designated Green Belt land, the visual qualities of it derive, in my opinion, from the openness it preserves in-between substantially built up areas, and that openness within the area would be preserved. Furthermore, there are views of other substantial built form nearby. UDP policy SP1 requires proposals to continue to protect the Green Belt from incompatible development, and it is my judgement that the appeal proposal accords with this aim.

90. Parts of the site are within the Lee Valley Regional Park boundary, and this was true of previous industrial buildings and use of land also. The park occupies land to the north and round to the west of the built up area following the river and reservoirs. There are policies which seek to improve access to the park, and these are accorded with, as the Linear Park within the site would provide new and more attractive links than is the case at present. Improvements to the Cheney Row open space are much needed and would have a positive effect on the visual environment and the use of the park. Similar to the case regarding the Green Belt, which has a different boundary, whilst the buildings, and Block F in particular, would be visible from the park, there would be some mounding and softening of the edge, and no harm would be caused to the wider aims of the Park Authority or to the character and appearance of the open space. The appeal land has not been in a park use, and the Billet Works part, although within the park boundary, is also within the IPPF area, and the appellant's view that this is of greater weight than the historic park boundary appears correct to me [73, 74, 67].
91. One further relationship of the proposed buildings to their surroundings is with regard to the residential properties on Kimberley Road in particular, as there were concerns expressed in written representation and orally at the Inquiry. Generally as stated the buildings step down towards these properties, but there would be Block A at three storeys along the west boundary facing the rear gardens. Having regard to this limited height and the distances involved, there does not appear to be an opportunity for harmful overlooking or for the building to appear harmfully incongruous in the outlook. The arrangement of Blocks A and B as an extension of the street would assist in integrating the new development visually with the existing one [75, 76].
92. The Council's ninth reason for refusal detailed a concern as to the effect of the underground car park on the quality of the landscaping, the fear being that there would be insufficient planting depth to sustain meaningful planting. That reason has been withdrawn and there is no reason to consider the arrangement unusual or incapable of contributing to an attractive landscape between the blocks. The Linear Park would not only provide access through the site but would be an attractive feature in its own right [64].
93. In conclusion on this main issue, the development would be at a density, and a height and form, not found in the residential properties nearby, but would more closely match the scale of the Academy next door. The site is however large enough to form its own character and appearance and the condition where it meets each of the four edges, to the main road, the residential properties, the park and the Academy, have been varied to suit each of the different contexts. As such the proposal would accord with Development Plan policies and Supplementary Planning Documents as follows;
- London Plan Policies 4B.1 in maximising the potential of sites with a high quality design, 4B.3 in providing an accessible public realm and 4B.10 in providing a high quality large development that has an acceptable relationship with the surroundings.
 - Unitary Development Plan Policies SP1 and SP2 in enhancing the surroundings, protecting the Green Belt and improving the quality of the urban environment, SP13 through a high standard of residential development, HSG4 as a well designed mixed use development, ENV16

having open space and making improvements to others, BHE1, BHE2 and BHE6 in good urban design, and PSC1 and PSC2 on the provision of open space and accessible development.

- Blackhorse Lane IPPF Policies BHLP3 and BHLP4 on access to the Lee Valley Regional Park as well as design and density aspirations for the site.
- Supplementary Planning Documents *Urban Design* and *Sustainable Communities Strategy*

Sustainability

94. The Council's second reason for refusal concerns a view that the site has a low level of public transport accessibility and is less suited to higher densities. The Council considers that the site should have a higher proportion of family units. IPPF Policy BHLP6 gives support to a mix across the area to reflect the position, public transport accessibility and surrounding townscape. It is clear therefore that alongside the need to make best use of land, all sites are not seen as having to provide the same density or mix of units [41, 42].
95. On density, the site is on a built up main road, but there is open space close by and the open land around the Academy. The density is higher than in the matrix to London Plan Policy 3A.3 (Table 3A.2) but that policy states the intention of Boroughs formulating their own policies in line with these aims. The proposed density is in line with that sought for the Blackhorse Lane area and assumed for this site in the more recent SHLAA. I have dealt with some of the manifestations of the density that are the subject of Policy BHLP6 in the first main issue and found the proposal acceptable in those respects.
96. Whilst the most distant of the major development sites from the core of the area, I do not consider it isolated in the terms used in the reason for refusal. A decision has been made that the area extends to include the site and it is right that it is included within the broad strategy for the area. Its location does have an effect on the nature of the provision and its context does result in a need to respond to a different set of constraints than which effect, for instance, the Sutherland Road development that I visited.
97. The site is not as well served by public transport as sites nearer the tube and Overground stations at Blackhorse Road, but not all journeys rely on commuting into central London and there are bus links to the supermarket at Crooked Billet and further in that direction, as well as to central Walthamstow and Stratford. Of particular importance to a balanced community, and not just one that travels out each morning, are the facilities close to the site, such as schools and local shops, with employment opportunities within walking distance or a bus ride, and scope for the bus service to be improved. It appears to me that it is these considerations that lead the IPPF to indicate the need for family accommodation on sites further from the stations [56].
98. However, whilst that is clearly the aim, the IPPF Policy BHLP6 does not state a figure for the proportion of family housing, or even state that this proportion should be higher, although that is the interpretation the Council puts on the requirement, and notwithstanding the lack of clarity in the wording, that would be a reasonable planning aim. That view is backed by the requirement in section 12.4 of the IPPF that the site is suitable for a higher proportion of

family housing. In this case the proportion of family units is higher than assumed in the Blackhorse Lane Planning Obligations Strategy [57].

99. There are further manifestations of density to be considered in this Report, and affordable housing is a separate issue, but on the matter of the sustainability of the site's location for this number of future residents and the proportion of family housing, I consider that the proposal's area is acceptable and would accord with the aims of policy in the IPPF as follows;
- Policy BHL6 in providing a higher proportion of family houses than provided for in the area as a whole.

Living Conditions, Private Open Space

100. The Council's argument is that ground floor family units should be regarded as being houses and hence the space allocated should be assessed as such. UDP Policy PSC1 states that whenever possible, family accommodation should be located at ground floor level with direct and exclusive access to amenity open space. The appellant has classed ground floor units that have flats above them as 'flatted developments', the term houses being reserved for those on the ground floor without flats above. This terminology has an effect on the required level of provision. The IPPF does seek a higher proportion of family housing on this site, including with private gardens, which allows for these not to be provided as well [43].
101. My view is that a dwelling within a block of flats, albeit that it has its own front door and may be arranged over two floors, does not fall to be considered as a house. That view is backed by the document *'Recommendations for Living at Superdensity'* which refers to a ground floor flat or maisonette with possibly a front door to the street. It is not just the lack of its own roof as such that determines this, but the fact that there are other dwellings above, limiting the degree to which the outdoor space can truly be said to be a private garden. Gardens to houses generally have a privacy afforded by there being only other residents alongside or at the rear. Residents above make this situation more akin to a flat, where the private amenity space would be accepted as being limited but compensated for by access to communal space. This would clearly be the case were the unit accessible only from an internal corridor even though on the ground floor and so in my opinion, the existence of a ground floor front door is a bonus, but does not change the status of the dwelling [58].
102. Some balconies are less than the 1.5m depth requirement and the Council question whether they are sufficient for their intended use. Policy PSC2 requires that where balconies are to be provided they should be designed, if possible, to enable them to be used without overlooking adjacent properties. On a general note, Policy BHE1 requires development to provide appropriate facilities for the benefit of occupiers and visitors. I am not persuaded from the layout of the balconies in question that this reduction in depth renders them insufficient for their use. In some cases it is clear from the drawings that the set back of the door within the reveal provides space not counted when measured from the wall face, and the existence of the door allows the balcony to be part of the room or *vice versa*, increasing the usability of the space. The expectation of use as a dining balcony could be achieved for informal meals and snacks and would depend on the type of furniture which would be sourced to suit the space.

103. The general arrangement of open space and the ratio of 'private' to 'residents-only communal' to truly 'public communal' is a matter of balance within the total space available. The use of underground car parking and what for the area would be significant building heights all assist in providing space at ground level for landscaping, recreation and movement. Whilst there are variations in what is provided in individual cases, the overall provision is reasonable and, taken together with the ready access to the Regional Park, I do not consider this arrangement to be an indication of a harmful situation or an excess density. I conclude that the provision of amenity space is acceptable and accords with the aims of UDP policies as follows;

- Policy PSC1, in the provision of accommodation and amenity space.
- Policy PSC2, in the arrangement of space for the exclusive use of residents.
- Policy BHE1, in providing appropriate facilities for the benefit of occupiers and visitors.

Safety and Crime, Car Parking

104. I have already stated my view that the use of an underground car park is appropriate in freeing space for activities more needy of an open, ground floor location, such as recreation, and that to do otherwise would compromise the best use of land. I acknowledge from the Metropolitan Police evidence that there have been examples of poorly designed underground car parking on housing estates, some within this Borough, and that these have been removed having fallen into disuse or become 'no go' areas. It is clear that in order to be successful a new type of car park is required with a new, rigorous security regime, so as not to inherit the poor reputation this provision appears to have [70].

105. The Safer Parking Scheme (Park Mark) requirements as set out by the Association of Chief Police Officers do provide such a model and notwithstanding some of the evidence of the Police, the Council's reason for refusal concerns the long term retention of the standard to avoid falling into the spiral of decline that appears to have befallen previous schemes [45].

106. The car park would be segregated into smaller gated areas which should provide a degree of 'ownership' and more easily allow intruders to be noticed. Access would be by way of a 'key-fob' system that would log use by individual holders and there would be measures to avoid a vehicle entering after a legitimate user by 'tailgating'. Closed Circuit Television (CCTV) monitoring would be undertaken on site, although not at the vehicle entrance, with facilities to make announcements within the car park areas. Steps should be taken to ensure fittings are protected or out of reach of abuse. I heard nothing to suggest that these measures could not be put in place or work in the short term [59].

107. My visit to the recently built Sutherland Road scheme however showed that there can be shortcomings in the provision. The entry gate was wedged open as people were working in the garage, the CCTV screen was not being monitored and some cameras were poorly located.

108. The long term case on the appeal site relies on sufficient funds being raised year-on-year through a service charge to maintain what appears to start off as

a robust scheme. Such a charge is not unusual and provided the system is maintained to the benefit of car park users, would be fair and proportionate. The UDP policies cited in the reason for refusal are not wholly appropriate to an underground location, as it is not possible for parking spaces to be provided within view of all properties (BHE7) but with the allocated parking areas being within reasonable access of the blocks, there is not, I find, an unreasonably long journey to the space for any resident. I conclude that the provision satisfies the overall aims of UDP policies;

- Policy BHE7 in that the development layouts have been designed to reduce the opportunities for crime.
- Policy PSC1 parking spaces have been located as close as possible to individual dwellings having regard to the layout of the development.

Safety and Crime, Housing Mix

109. The reason for refusal refers to the statement in the IPPF that sites further from the core, such as this, should have a proportion of larger units. I have previously expressed a view on the wording and the intent. It is not certain that family units would necessarily allow a greater degree or amount of natural surveillance. Such a larger unit would tend to take up more external wall space with bedrooms, but still have a likelihood of all occupants being out during the day at school or work. More smaller units could be accommodated along an external wall, and could house elderly people who would tend to be home longer during the day. It appears to me that the variables are such that there is not a fixed relationship between size of unit and the amount of natural surveillance.
110. Of more importance is the layout of the scheme. One of the advantages of the layout is its permeability, integrating it with the surrounding pedestrian routes and forming new ones to the open space to the north. This would however provide for a public access rather than this being a gated community and not all users will be known to residents. Whilst there are instances of units looking onto the internal courtyards, a high number have an outlook over the public areas and there would be movement and activity at ground level to deter crime. One of the justifications put forward for the height of Block F is the surveillance of the open space to the north and units at lower levels would look out onto the Linear Park and the Homezone [60].
111. The Metropolitan Police expressed the view that a proliferation of 'buy-to-let' rented occupation and a possibility of inner London tenants moving to places such as Waltham Forest due to changes in the housing benefit rules would lead to a transient population and poor social cohesion. The two issues raised could have an effect, but are not confined to this scheme and are not a consequence of this scheme's layout and design. Neither am I sure that a reduction in the density of the scheme would overcome the perceived problem [71].
112. I consider the arrangement of windows and units within the blocks to be well-thought-out with the aims of reducing crime and increasing natural surveillance. To conclude on this issue, the proportions of smaller or larger units need not have a determining effect on the degree of natural surveillance and the layout of the scheme would provide for lively spaces. The aims of policies in the UDP would be satisfied;

- Policy BHE7, the informal surveillance of public and semi-private spaces around buildings would be maximised.
- Policy PSC1, the design and layout of the development would encourage the informal supervision of the spaces around buildings by their occupiers.

Living Conditions, Car Parking

113. This matter was not pursued at the Inquiry and it had been agreed that conditions could be used to control adverse effects. A Delivery and Service Plan [Condition 40] is to be submitted to rationalise use of the service areas and a Waste and Refuse Management Strategy [Condition 28] is to be submitted controlling storage and collection by vehicles. The reason for refusal also refers to the healthcare facility and convenience store, but the purpose of these facilities is to serve the site and the immediate surroundings rather than to become a major destination in the way that the supermarket at Crooked Billet is [61].
114. Once the use of underground car parking is accepted, for the reasons previously set out, along with the location of some residential units at up to seven storeys, again for reasons detailed, it follows that there will be some units that are at a distance from their parking areas. However, provided the route is convenient and secure, distance as such is not an indication of harm.
115. I will address here the concerns of the local residents of Kimberley Road in particular. The depth of that concern was illustrated by their attendance at so many of the sessions of the Inquiry and the questions that they asked of witnesses. Whilst the main access to the scheme would be from Billet Road, for servicing and deliveries and to the main car parking under Blocks E and F, there would be a smaller area of car parking under Block A that would take its access from Kimberley Road. There are townscape advantages in continuing the line of the road and in limiting overlooking, also matters addressed previously in this Report. The numbers of vehicles wishing to access the car park would be low and I attach weight to the evidence that the cycling time of the barrier at the entrance would limit the degree to which vehicles would back-up onto the highway and hence inconvenience road users and residents. There would also be some improvements over the present situation of being adjacent to a commercial use with the possibility of lorries delivering, and it is right that this is factored into the consideration too. On balance, changes are likely to be experienced by the existing residents but would not be such as to call into question the advantages of the scheme [75, 76, 61].
116. As such the proposed development would not be contrary to the following UDP policies;
- TSP17 in seeking to ensure that proposals should make the appropriate provision for off-street parking.
 - BHE3 ensuring proposals do not harm the local environment or the amenity of neighbouring occupiers.

Affordable Housing

117. At the time that the application was made and reported to Committee, the offer was for the supply of affordable housing at a rate of 32% but this has

been reduced to 20% as set out in the S106 Undertaking. It is agreed that even at this lower rate, the provision renders the scheme unviable. The appellant's evidence is that the reduction from 32% to 20% was because the prospects of achieving a 19.3% increase in sales values was considered remote and not likely within the three year life of the permission [46].

118. Whilst 50% is the strategic target as set out in London Plan Policy 3A.9, and carried forward in UDP Policy HSG6, both that policy and the London Plan Policy 3A.10 make allowance for this not being reasonable or viable, and that the maximum reasonable amount of affordable housing should be negotiated in new housing developments. The Council's Preferred Options document concludes that a maximum Borough-wide figure of only 20% is deliverable in the current market [62].
119. The Undertaking provides for an ordered increase in the percentage of affordable housing to be delivered as future phases are built-out, provided these increased rates are viable at the time. The whole provision is underpinned at the 20% rate. The Council's view is that anything less than 40% is unacceptable and planning permission should be withheld [46].
120. The site is very important to both the delivery of housing in the Borough generally and its part in the 5 year supply of housing land, and to the delivery of much needed affordable housing. However, once built, the site will have been used, and the opportunity will not present itself again. Assuming all other considerations point to a grant of planning permission, the options and outcomes appear to be [62];
- Grant permission on the basis of the S106 offer, the economic situation improves within the life of the permission sufficient for development to go ahead to deliver at least the 20% affordable element, with the possibility of more.
 - Grant permission but the economic situation does not improve, no development proceeds and the permission lapses, allowing a reappraisal in light of the situation at that time.
 - Not grant permission and the Council appraises any future application and offer in light of the situation at that time.

Against these scenarios is the urgent need, now, for affordable housing.

121. There is no certainty in any event, but with only a three year permission and an already designed scheme, there are real advantages in my judgement to a permission being in place and ready to be implemented quickly. To wait for an upturn, then entertain a second application, could build-in more delay and a risk of other parameters changing, requiring further redesign. On the figures presented to the Inquiry, a substantial improvement in the economic situation is required to even reach the 20% level, and it appears that on this main issue, there is little risk in the grant of permission now and little likelihood of the 40% level being achieved soon whichever scenario prevails.
122. Other appeal decisions have been presented showing how Inspectors and the Secretary of State have considered offers of affordable housing less than the level sought. I concur with the view of the appellant that these need to be approached with care, either because they are within a different policy regime,

outside London, or did not offer a satisfactory method of increasing the offer during the life of the permission should circumstances allow. In the balance required of those considerations the affordable housing proposals were seen as a disbenefit of the scheme and I shall carry out a similar exercise in my concluding paragraphs.

123. In this case I consider that full weight can be attached to the Undertaking in its present form in furthering the aims of the following policies;
- London Plan Policy 3A.10 on securing the maximum reasonable amount of affordable housing, encouraging rather than restraining residential development.
 - UDP Policy HSG6 seeking the maximum reasonable amount of affordable housing in new housing developments.

Provision of Infrastructure

124. The Council document *Blackhorse Lane: Fulfilling the Potential, Interim Planning Policy Framework (2006)* sets out the measures to support and encourage the transformation of the Blackhorse Lane area over a ten year period. Six objectives are identified;

- Objective 1, A New Centre Around the Station
- Objective 2, Bringing the Country into the City
- Objective 3, Meeting Housing Need
- Objective 4, a 21st Century Business Area
- Objective 5, New Horizons for Local People
- Objective 6, Managing Traffic and Encouraging Sustainable Transport

The section on planning obligations states that in order to be acceptable in planning terms, new developments within the Blackhorse Lane area will be expected to contribute to the wider objectives of the area through planning obligations. All developments will be expected to make appropriate provision of, or contributions towards, various aims [47].

125. The obligations section of the IPPF states that pooled contributions will be sought in line with Government guidance in Circular 05/05, and the resulting *Annex to Planning Obligations Supplementary Planning Document: Blackhorse Lane Planning Obligations Strategy (February 2009)* sets out the detail and the calculation of the tariff arriving at a figure of £9,000 per unit. There is reference to a temporary discount due to low development values, till March 2012, and provision for negotiation over the level of contribution that can be demonstrated as reasonable whilst still allowing development to take place. The text also makes provision for a 'clawback' of any discount to the full level in the future if viability improves before or during the build-out.
126. In the report to the Council's committee the viability of the scheme and the 32% affordable housing offer was linked to a proposal to make contributions at the rate of £4,500 per residential unit, totaling £2,529,000, and that is the figure in the signed undertaking. That figure, allowing for those items that are included within the scheme proposals, omits certain items in the list of pooled

contributions. The report stated that this could be justified in order to allow the regeneration of the site to come forward, a stance that seems in accordance with the provisions of the area's obligations strategy. It was further stated that the contributions would mitigate the impact of the development. The appellant states that there was never any mention of a 'clawback' arrangement being needed and this matter was agreed by the Council in closing submissions.

127. The appellant has drawn attention to Regulation 122 of the Community Infrastructure Levy Regulations 2010 to the effect that it would be unlawful for a planning obligation to be taken into account in a planning decision on a development if the obligation does not meet all of the following tests; it must be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development [63].
128. The map on page 44 of the IPPF shows the relationship of the three main growth areas to the boundary and other features. The Station Area (sites BHL1, BHL2 and BHL3) is towards the southern end of the area, Sutherland Road (sites BHL4, BHL5 and BHL6) is close-by and still close to the station, east-west and north-south bus routes. The third growth area, Billet/Kimberley (the appeal site, BHL7) is some way to the north-east and is described as being in a good position overlooking playing fields and the Lee Valley Regional Park and with excellent access to the North Circular Road. Whilst all seven major sites are within the designated area, it is apparent from the map that the other six are in a much closer relationship with the station and the neighbourhood centre than the appeal site. I have referred to this difference in coming to a conclusion with regard to sustainability and my view that the site's location does not imply a definitive link with the tube and Overground stations; there are other destinations and opportunities in the opposite direction. This leads me to question the extent to which the pooled contributions sought relate to the site and hence the development proposed, and whether they are all necessary to make the development acceptable in planning terms, to mitigate the effect of development.
129. Many of the items are accepted by the appellant⁷⁹ and make up the £4,500/unit offered. I consider that these items are legitimately required to be contributed towards in order to mitigate the effects of the development and the additional people who would be living on the site and using the infrastructure. In respect of these items the three statutory tests are satisfied and full weight can be accorded to the undertaking to provide for these effects.
130. Looking then at the disputed items relative to the calculation in Appendix B of the obligations strategy and the requirements in Appendix C, there is precedent for a more targeted approach in that the Sutherland Road Garden Square and the Sutherland Road streetscaping have been agreed to be omitted from the requirement, and the Sutherland Road access road has been deleted as a scheme.
 - The Southern Gateway is a proposed improvement near the Blackhorse Road tube station that the Council states will improve access for pedestrians

⁷⁹ Document A4

and bus services. It is clear from the obligations strategy that it will also provide access for the Station Hub and for the Waterfront site to be funded by that developer. I heard evidence that the access to the station is acceptable at present, and my experience of using the junction and entrance on foot, and of both arriving and departing by bus, was that the access is good. I do not consider it necessary to improve that access in order to allow the appeal scheme to go ahead, in view of the relative location and other travel options as set out.

- The Lee Valley cycle route/footpath does not appear to be necessary for the appeal site to be developed and one of the aims, to improve access to the Lee Valley Regional Park, is achieved by the appeal proposals by way of the Linear Park.
- The waterfront adjacent to High Maynard Reservoir is distant from the site and I concur with the view of the appellant that, although no doubt a good idea, it is not necessary to allow the appeal scheme to go ahead⁸⁰.
- Three items are provided for in whole or part by the appeal scheme; the objectives of the Blackhorse Lane/Billet Road streetscaping will be achieved to a significant degree by the proposed highways works through a S278 Agreement. The sum sought in the tariff could not be for the whole length of the road, making the improvement of that part near the site appropriate. The funding for the Forum building reasonably offsets the requirement regarding cultural and community facilities, and the funding sought to increase skills to allow employment on future new industrial parks has not been justified or shown to be relevant; a provision for an employment and training strategy with regard to the long build-out process on the site is sufficient.

131. I am aware that this approach could work in the other direction, and that contributions to items close to the appeal site, such as improvements to Cheney Row open space, would not necessarily be forthcoming from the other sites which are some distance away and not well related to that provision [47].

132. A level of public funding has been assumed by both the obligations strategy and the appellant. The strategy assumes a total requirement of £33m with funding of around £14m from other sources, leaving a funding gap of around the £19m mark, which, allowing for support for commercial development results in the tariff figure. The appellant states that they have assumed a lower rate of funding, *pro rata* their contributions. I agree that this provides comfort that the sums provided for in the Undertaking are at the very least sufficient for the items that I consider justified, and would provide for more if the Secretary of State considers that warranted.

133. The Council raised some concerns about the signing and wording of the Undertaking.⁸¹ & ⁸² I address the points as follows;

- Authorisation to sign. This appears to have been clarified by the submission of the minutes of the Meeting of Directors.⁸³

⁸⁰ DOC C12

⁸¹ DOC C18

⁸² DOC C14i and C14ii as updated on receipt of completed undertaking

- Point 1, the undertaking does not bind the whole of the site as a small part is owned by the Council who state that they are not willing to sell. The appellant states that the affordable housing can be delivered even if Block D is not built. The Council remained concerned as to the effect on the viability calculations, and block D is the low density part, thus raising the overall density. In view of the allowance for viability to be considered at each phase, I do not consider this omission, if that is what occurs, calls into question the scheme as a whole.
- Point 2, now discharged.
- Point 3, this is dealt with as a main issue.
- Point 4, there is a case for flexibility, and dispute resolution should look at the matter fairly and in the light of the situation at the time. An early agreement with a Registered Social Landlord should be pursued.
- Point 5, the harm is in the reduction in the number of 3 bed and larger units early on, but again some flexibility is required.
- Point 6, now discharged.
- Point 7, the appellant considers that the requested change does not help the viability of the scheme and would put the possibility of development back. In light of the evidence heard, the offer in the undertaking is realistic.
- Point 8, this is dealt with as a main issue.
- Point 9, now discharged.
- Point 10, now discharged.

134. I conclude that the fourteenth reason for refusal has been satisfactorily overcome by the submission of the signed Undertaking and that with regard to the eighth reason for refusal, the sums offered by way of the Undertaking are in accordance with the requirements of the CIL Regulations, being necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development. The proposals therefore accord with the aims of the IPPF and the related obligations strategy and with UDP policies as appropriate;

- Policy SP18 the planning obligation is required to facilitate the development.
- Policy TSP9 the planning obligation is appropriate to deliver more sustainable transport solutions by way of the increased bus frequency.

Servicing Arrangements

135. The scheme does rely on the extent and quality of the communal areas around the outside of the blocks to augment the private space available, and I have taken account of that in considering the amount and nature of the private gardens and balconies. The proposed Linear Park would, I consider, be well

⁸³ DOC A12

used by both residents and others as one of its benefits is that it opens up access from Billet Road and existing residential areas to the Lee Valley [58].

136. Servicing would take place from the main vehicle entrance on Billet Road to the entry to the service area within Block E and that area of the site would also provide the main entrance to the underground car park. The general arrangement drawing shows this as being akin to a road with footways and a junction with the main road. It would clearly be a vehicular route.
137. Further into the site the nature of the space would become less clearly vehicular and more of a pedestrian area. That dual use applies to the area between Block F and Block E, between Block F and Block H and J, and to the north of Block F.
138. The Linear Park, running between Blocks A, B and C, and Blocks E and F, would have the appearance of a pedestrian and recreation area. It would however need to accommodate access for refuse lorries, which could be controlled by a Delivery and Service Plan and a Waste and Refuse Management Strategy. This would be a regular, but not frequent, occurrence and would be under the control of the site management. Detailed design of the landscaping could play a part in ensuring that the areas felt like pedestrian areas and that drivers were aware that it was they who were to take particular care. The avoidance of the need to reverse and good inter-visibility all play a part in ensuring a safe environment [65, Conditions 28 and 40].
139. Emergency and less frequent vehicles would present a different case, but the frequency of the hazard would be low and with good design, the consequences would be limited. I consider that a risk assessment would indicate that the benefits of an attractive, non-segregated landscaped area would far outweigh the scope for harm. The proposed dual uses would be acceptable and accord with UDP policies;
 - Policy SP1 in providing open spaces which have an important role to play for amenity reasons, for nature conservation, for recreation and community purposes.
 - Policy SP2 in the quality of the public realm landscape and streetscape.
 - Policy HSG4 where landscaping is well designed and makes a contribution to promoting urban renaissance and the quality of life.
 - Policy BHE1 with the landscaping providing appropriate facilities for the benefit of occupiers and visitors.
 - Policy BHE3 it can be ensured by condition that adequate arrangements for the storage, collection and disposal of refuse are in place.
 - Policy PSC1 that the location and design of communal landscaped areas, particularly in flatted developments, has had regard to the safety of local residents and passers by.

Air Quality

140. This concern was again not pursued due to the possibility of using conditions to overcome it. The scheme would incorporate a biomass boiler, making use of a renewable energy source in line with sustainability and energy-use policies.

There would however be a need to control emissions to ensure no harm to air quality. The Council's eleventh reason for refusal was in terms of the scheme not demonstrating compliance and I am satisfied that with conditions 45 to 49 in place that concern can be overcome. The proposal would therefore accord with UDP policies as follows;

- Policy BHE3 in not prejudicing the amenity of the occupiers of adjacent properties by reason of fumes, smells, smoke, ash, dust, soot or other forms of pollution.
- Policy WPM9 in providing information and monitoring adjacent to the borough's main road network where levels of air pollution are high.

Healthcare Facilities

141. It was the intention that the Primary Care Trust (PCT) would take up occupation within the scheme and space was set aside for that purpose. It was referred to as a benefit and would serve not only the new residents of the development but also existing residents in the area. Such provision is supported by the UDP policies referred to in the reasons for refusal but they do not insist on it.
142. In the event it appears unlikely now that the PCT will take up the opportunity, but that also appears to be on the basis that another location is being considered. The important consideration here is that the facility should be in place to serve the needs of the new residents, as the site was previously not in residential use and they would represent a net increase in the local population. Whilst there is merit in a mixed use development containing a wide range of facilities there is no way in which a developer could coerce a supplier to move in, and it would not appear reasonable to link the grant of permission, or control the situation by means of a negatively worded condition, to ensure that occupation [48, 66].
143. The final decision had not been taken at the time of the Inquiry and there may well remain the possibility of the PCT changing their view as to provision during the life of the permission or up until that phase is committed. With the continuing option of a *pro rata* contribution through the Undertaking, or the provision on-site as originally proposed, there should be no risk in granting permission for the facilities as a use and space within the site. If the use did not need to be taken up the appellant mentions the possibility and acceptability of further D1 floorspace. That would be a matter for an application pursuant to Condition 34. Whichever route is eventually taken, the support given in the following UDP policies would be accorded with;
 - Policy SP8 which welcomes mixed use.
 - Policy SP17 which supports regeneration.
 - Policy HSG4 which seeks to ensure new housing schemes make a contribution to promoting urban renaissance and quality of life.
 - Policy GCS2 which encourages new or improved community facilities to tackle social exclusion.

Mixed Use Development

144. The thirteenth reason for refusal is similar to that regarding the healthcare facilities other than there does not appear to be doubt over whether the non-residential uses would be provided in the first instance, only over their medium to long term viability and sustainability. The scheme is offered as being mixed use and that complies with policies which support that approach. I concur with the appellant that not proposing this mixed use would have been a significant failing [49].
145. There is evidence of demand for the crèche and the uses within the Forum part of Block A would include the management suite, a usual facility within a scheme of this type and one that would be expected to be supported through service charges levied on residents who would benefit from the on-site presence. Other parts of the building have been designed and designated with the market demand in mind, it is quite likely that the first floor spaces would be attractive to community interest groups that would be set up by residents in a development such as this. The appellant is providing support for the first two years as 'seed funding' after which it is reasonable to assume that the facility would be self financing [66].
146. There is no evidence that this development would be unlikely to support the uses or generate the demand that is common in large residential developments, and every likelihood of the spaces being used as intended and in line with UDP policies;
- Policy SP17 bringing forward proposals which contribute to the regeneration of those areas of the borough where investment is required.
 - Policy INB11 encouraging and supporting the development of small firms by promoting where appropriate the provision of suitable workspace accommodation.
 - Policy HSG4 housing schemes being well designed and making a contribution to promoting urban renaissance and quality of life.
 - Policy GCS 2 in bringing about the creation of facilities as part of mixed use schemes for the community.

Other Considerations

147. The part of the land accessed off Cheney Row is owned by the Council, and although the correct certificates were served at the time of the application, it was only stated in closing that the Council were not likely to dispose of that land to the appellant. I am unclear why this information only came to light so late. I am assured by the appellant that this area and part of the scheme is free standing and could be developed, or not, without adverse effect on matters that form a part of this decision. It would contain the low rise buildings and ones that have their own vehicular access. It is also land that is within the Regional Park, and so it could be said that there are advantages, albeit limited on balance, in this remaining undeveloped. Either way, I do not consider that this strikes at the heart of the scheme or calls into question the evidence that I heard during the preceding sitting days.

Overall Balance and Conclusion

148. The Council cited 14 reasons for refusal and although some were withdrawn and not pursued, a substantial number remained as objections to the proposal. The Council stated that it was the cumulative effect of so many matters considered unacceptable, that led to the overall decision to refuse permission.
149. I have heard evidence and considered each reason divided into the main issues in this Inquiry and come to the view that, cumulatively, the balance lies with a recommendation to grant permission subject to conditions to control important aspects of the scheme. This would be a high density for the area and the buildings would be larger and significantly different in character to those in the neighbourhood. Balanced against that, the existing use and buildings on the site is visually incongruous. Redevelopment would be of strategic importance in providing housing and furthering the aims of the IPPF. There is strong policy backing for the density and hence this type of physical form, including the use of an underground parking layout and relatively tall buildings.
150. If it is accepted that this level of density and the physical manifestation is appropriate to the area, consideration should be given to the acceptability of areas where design decisions have been made to achieve the 'best fit', such as in the provision of amenity space and the Linear Park being shared by service vehicles. I do not call these 'compromises' but such decisions are a necessary part of the design of this size and complexity of scheme. My recommendation is that, on balance, these matters are satisfactorily provided for and that cumulatively, the balance lies with a grant of permission.
151. The funding proposed towards infrastructure is less than that set out in the tariff, but an item-by-item appraisal by the appellant has put forward a level of funding found acceptable by officers originally. I concur with that view and in light of the CIL Regulations.
152. Finally, the question of the level of affordable housing is not straightforward and relies on taking a view on the economic situation over the life of the permission. I see little risk in accepting the appellant's offer of 20% with a mechanism for this to increase. At the worst the scheme would not proceed, as even 20% is not currently viable, but that is a situation that would occur were permission to be withheld for this reason. The low level of affordable housing provision is a disbenefit, but only compared with an expected level set out in strategic and local policy, and that expected level has been shown to be unrealistic in the present economic circumstances. Hence I conclude that the disbenefits of the scheme are outweighed by the benefits, including that of granting permission now so that a start can be made ready for the anticipated upturn in the economy.

Recommendation

153. I recommend that the appeal be allowed and that permission be granted for the appeal development subject to the conditions set out in Annex A.

S J Papworth

INSPECTOR

APPEARANCES

FOR THE LOCAL PLANNING AUTHORITY:

Toby Fish of Counsel

he called;

Andrew Jones BSc, MRICS BPS Chartered Surveyors

Jonathan Price Deputy Section Manager Environment and
Regeneration Section
London Borough of Waltham Forest

Ron Presswell BSc(Hons) DipUD Programme Manager Urban Design
London Borough of Waltham Forest

Peter Wright FCIOB MBA Interim Head of Strategic Housing
Development
London Borough of Waltham Forest

FOR THE APPELLANT:

Timothy Corner of Queens Counsel

and

Paul Stinchcombe of Counsel

they called;

Georgina Holden BA(Hons) DipArch Director Divine Ideas (UK) Ltd
MA RIBA ARB

Andrew Williams Managing Director Birmingham Office
Capita Lovejoy

Joseph John Ellis BSc MSc CEng Associate, Steer Davies Gleave
MICE MIHT

Martin Sola BSc Partner, Aver Consulting, Solar Consulting
Partnership

Anthony Lee BSc(Hons) MSc(Econ) Director Development and Residential
MA(TP) MRICS PhD Consulting Division
BNP Paribas Real Estate

Alastair Crowdy G L Hearn Property Consultants

FOR THE METROPOLITAN POLICE:

Constable Paul Hawkins	Police Crime Prevention & Design Officer Metropolitan Police
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Darren Brand	Metropolitan Police
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Pat Cougan	Metropolitan Police
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FOR THE LEE VALLEY REGIONAL PARK AUTHORITY:

Stephen Wilkinson BA(Hons) BPI DipLA MBA MRTPI	Lee Valley Regional Park Authority
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INTERESTED PERSONS:

Cllr Bellamy	London Borough of Waltham Forest
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Ann Carter	Local resident and on behalf of others
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M R Hernaman	Local resident and on behalf of others
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DOCUMENTS AT START OF INQUIRY

Proofs of Evidence

Council;

- Document 1 Andrew Jones
Proof of Evidence and Appendix A (doc1i)
Rebuttal Proof of Evidence (doc1ii)
(also Council's Revised Position Regarding Reason for Refusal
7, DOC C2)
- Document 2 Jonathan Price
Proof of Evidence and Appendices 1 to 8 (doc2i)
Supplementary Proof of Evidence, Appendix 1, previous
Appeal decisions and Annual Monitoring Report (doc2ii)
(also Summary/Supplementary Proof of Evidence, DOC C7)
- Document 3 Ron Presswell
Proof of Evidence (doc3i)
Appendices A to S (doc3ii)
- Document 4 Peter Wright
Proof of Evidence (doc4i)
Appendix 1 (doc4ii)
Appendix 2 (doc4iii)

Appellant;

- Document 5 Georgina Holden
Proof of Evidence and Appendices 1 to 10 (doc5i)
Summary Proof of Evidence (doc5ii)
- Document 6 Andrew Williams
Proof of Evidence (doc6i)
Summary Proof of Evidence (doc6ii)
Appendix A (doc6iii)
Urban Design Supplementary Proof of Evidence and
Appendices A to D (with correction pages) (doc6iv)
- Document 7 Joseph John Ellis
Proof of Evidence (doc7i)
Summary Proof of Evidence (doc7ii)
Appendices A to J (doc7iii)
- Document 8 Martin Sola
Proof of Evidence and Appendices 1 to 4 (doc8i)
Summary proof of Evidence (doc8ii)
- Document 9 Anthony Lee
Proof of Evidence (doc9i)
Summary Proof of Evidence (doc9ii)
Appendices 1 to 9 (doc9iii)
- Document 10 Alastair Crowdy
Proof of Evidence, Appendices AC1 to AC8 (doc10i)
Summary Proof of Evidence (doc10ii)
Supplementary Proof re Lee Valley and AC9 to AC13 (doc10iii)
Supplementary Proof re housing mix and AC15 to AC18
(confirmed no AC14) (doc10iv)

Lee Valley Regional Park Authority;

Document 11 Stephen Wilkinson
Proof of Evidence, and Appendices A to I

Metropolitan Police;

Document 12 Constable Paul Hawkins
Proof of Evidence (with correction page appended at front)
with Appendices 1 to 6 (doc12i)
Appendices 7 to 22 (doc12ii)
Supplementary Proof of Evidence and Appendices 1 to 9
(doc12iii)

Interested Parties;

Document 13 Letters of objection received by the Planning Inspectorate
(red folder in appeal file)

Application Plans and Statements (in white ring binders)

Document WRB1 Application form, Certificates and Statements/Reports
Document WRB2 Statements/Reports (contd)
Document WRB3 Revisions and supporting documents
Document WRB4 Appeal scheme drawings, See also CD 8.1 for bound version
of Drawings and Revision G
Document WRB5 Council Decision Notice, Reports, draft conditions.

Core Documents

CD 1.1 Lee Valley Regional Park Act 1966 (at DOC11 Appendix B)
CD 1.2 The Community Infrastructure Levy Regulations 2010 Part 11
CD 3.1 Spatial Development Strategy (London Plan
Consolidated with Alterations since 2004) (February 2008)
CD 3.2 London Plan SPG – Housing – November 2005
CD 3.3 The London Plan – Consultation Draft Replacement Plan –
October 2009
CD 3.4 London Housing Design Guide – interim Edition – Aug 2010
CD 4.1 Waltham Forest Unitary Development Plan – First Review
(Adopted March 2006)
CD 4.2 LBWF – Blackhorse lane interim Planning Policy Framework –
Sept 2006
CD 4.3 LBWF – Planning Obligations SPD – Nov 2008
CD 4.4 LBWF – Annexe to Planning Obligations SPD – Blackhorse
Lane –February 2009
CD 4.5 Urban Design SPD – Adopted 2010
CD 4.6 LBWF – Core Strategy, Preferred Options stage – January
2010
CD 4.7 Blackhorse Lane; Sutherland Road Planning & Design Brief
– May 2007

CD	5.1	Banbury Park Design & Access Statement (Divine Ideas) – Sept 2008
CD	5.2	Banbury Park Design & Access Statement Addendum (Divine Ideas) – revised February 2010
CD	5.3	Letter from CABE, dated 1 May 2008
CD	5.4	Letter from CABE, dated 17 November 2008
CD	5.5	Letter from Design for London, dated 18 th March 2008
CD	5.6	GLA Stage 1 Report, dated 17 December 2008
CD	5.7	Letter from Natural England, dated 18 th November 2008
CD	5.8	Letter from CPDA, dated 12 February
CD	5.9	Letter from Lee Valley Park, dated 4 March 2009
CD	5.10	Minutes of meeting with CPDA, dated 7 April 2009
CD	6.1	Case Officer's report to LB Waltham Forest Planning Committee, 13 April
CD	6.2	Addendum to Case Officer's report to LB Waltham Forest Planning Committee
CD	6.3	Planning Conditions prepared by LB Waltham Forest
CD	6.4	Crime Prevention Design Advisor (CPDA) Report 2 March 2010
CD	6.5	Letter from GLA dated 5 May 2010
CD	6.6	LPA's decision notice, dated May 13 2010
CD	7.1	Lee Valley Regional Park Plan 2000
CD	7.2	Lee Valley Regional Park Development Framework Consultation Draft
CD	7.3	LDA Design Strategy for Cheney Row/Folley Lane 2008
CD	7.4	Plan of Appeal scheme with Park boundary superimposed (at DOC11 Appendix A)
CD	8.1	Drawings and Schedules Revised Scheme F February 2010 and Revision G
CD	9	Police appendices (at DOC12i, DOC12ii and DOC12iii)
CD	10	Police appendices (at DOC12i, DOC12ii and DOC12iii)
CD	11.1	Waltham Forest Housing Strategy 2008-2028
CD	11.2	Waltham Forest Borough Investment Plan
CD	11.3	Strategic Housing Land Availability Assessment 2009
CD	11.4	Housing Needs and Market Study
CD	11.5	LBWF Sustainable Communities Strategy 2008
CD	11.6	Draft Upper Lee Valley Opportunity Areas Planning Framework
CD	11.7	Building for Life – 20 Criteria (No date)
CD	11.8	Recommendations for Living at Superdensity – Design for London 2007
CD	11.9	E-mail from David Watkinson of GLA
CD	11.10	Letter from Sarah Gill dated 19 th August 2010
CD	11.11	By Design – CABE (May 2000)
CD	12.1	106-108 & 1-8 Gordon Court, Hampton (Appeal Reference; APP/L5810/A/05/1181361)
CD	12.2	154-160 Croydon Road, Kent (Appeal Reference; APP/G5180/A/08/2084559)
CD	12.3	Goldhawk Industrial Estate (Appeal Reference; APP/H5390/A/09/2118360)
CD	12.4	4 Oxford Street, Woodstock (Appeal Reference; APP/D3125/10/2104658)

DOCUMENTS SUBMITTED AT INQUIRY

Council	C1	Notification letter dated 18 October 2010
Council	C2	Council's Revised Position Regarding Reason for Refusal 7
Council	C3	Opening submissions
Council	C4	Banbury/Hadley Homes - Design Comments 11 February 2009
Council	C5	Banbury Park Comments undated, prior to Committee Report
Council	C6	e-mail Anthony Lee to Andrew Jones 15 November 2010
Council	C7	Summary Proof of Evidence Jonathan Price and schedules, agreed to be supplementary also
Council	C8	Reports to Committee 3 November 2009 (C8i) and 6 January 2009 (C8ii)
Council	C9	LDF Annual Monitoring Report 2009/10
Council	C10	Open Space Assessment September 2008
Council	C11	Housing Needs & Market Survey Final Report 2007
Council	C12	Blackhorse Lane Waterfront Park Feasibility Study Stage 4 Final Report July 2009
Council	C13	Council's position on the letter dated 9 November from G L Hearn
Council	C14	Comments on S106 discussed at Inquiry, updated on receipt of completed undertaking
Council	C15	Estate Management Strategy
Council	C16	Closing submissions
Council	C17	Costs rebuttal
Council	C18	Letter to Planning Inspectorate 13 January 2011 regarding authorisation to sign S106
Appellant	A1	Opening submissions
Appellant	A2	Schedules Revision G
Appellant	A3	Schedule of family flatted units at higher level
Appellant	A4	Letter G L Hearn to J Price LBWF 9 November 2010
Appellant	A5	Statement of Common Ground
Appellant	A6	S106 Unilateral Undertaking draft as discussed at Inquiry
Appellant	A7	Closing submissions
Appellant	A8	Costs application and letter G L Hearn to Council 28 April 2010
Appellant	A9	Site visit itinerary
Appellant	A10	Costs final comments
Appellant	A11	Completed S106 Unilateral Undertaking dated 7 January 2011
Appellant	A12	Minutes of Meeting of the Directors London Investment Properties plc, re. DOC C18
Met Police	P1	Extract Home Office CCTV Operational Requirements Manual
Met Police	P2	Closing submissions
Lee Valley	LV1	Bundle of e-mails 9 December 2010 etc
Third Parties	3/1	Speaking Notes A Carter
Third Parties	3/2	Letter from Stella Creasy MP for Walthamstow 12 November 2010
Third Parties	3/3	Speaking Notes Cllr Bellamy

ANNEX A

Conditions

- 1) The development hereby permitted shall be begun before the expiration of three years from the date of this permission.
- 2) The development hereby approved shall be built in accordance with plan numbers 100, 101, 102, 103, 200F, 201F, 202F, 203F, 204F, 205F, 206F, 207F, 210E, 211E, 212E, 234E, 235E, 310F, 311F, 312F, 313F, 314E, 316E, 317E, 318F, 319F, 320F, 321E, 322E, 323E, 324E, 326E, 327E, Building C & D 330F, 331F, 332F, 335F, 336F, 337F, 340E, 341E, 342E, 343E, 344E, 345E, 346E, 347E, 348, 349, 350, 351, 355F, 356F, 357E, 358E, 359E, 360E, 361E, 363E, 364E, 365E, 366E, 370E, 371E, 372E, 373E, 374E, 380F, 381E, 382E, 383E, 384E, 385E, 386E, 387E, 390, 391, 392, 393, 394, 395 (Revision F, February 2010), received 22/2/2010 and five unnumbered drawings Revision G, March 2010 received 18/3/10 relating to wheelchair accessible units, except where details are reserved otherwise by condition of this planning permission or subsequently approved in writing by the Local Planning Authority.
- 3) No development shall take place until a suitable and sufficient site investigation has been carried out to determine the presence of contaminants, including ground-exhaled gases, and the full methodology and full results of the investigation and details of remedial measures proposed for the treatment of the contamination on the site have been submitted to and approved in writing by the Local Planning Authority. The submitted information shall include measures to prevent the migration of contaminants, to protect structures and services, and to protect future maintenance personnel, and prevent pollution of groundwater and surface water (including provision of monitoring thereof).
- 4) No development shall take place until the contamination has been fully treated in accordance with the approved remedial measures. During the course of the construction and carrying out of the development approved, access shall be provided to Council officers and their agents to ensure that any unforeseen contamination problems are recognised and any such contamination shall be treated by remedial action specified by the Council or their agent or as agreed in writing. The developer shall provide certification on completion of remediation works from the specialist contractor that the works were completed wholly in accordance with the agreed details.
- 5) No development shall take place until a survey of existing levels of the site has been carried out and has been submitted to and been approved in writing by the Local Planning Authority. The information submitted is to include details of any proposed alterations to the levels and details of the floor height of the proposed buildings. The development shall be carried out in full accordance with the approved scheme.
- 6) Notwithstanding any indications on the submitted drawings, no development shall take place until details showing how the principles and practices of the Secured by Design Award Scheme are to be incorporated into the development, (to include main entrance door sets, window sets and glazing, the layout and management of the basement car park including controlled access and entry and exit gates in line with the recommendations of the Crime Prevention Design Advisor, letter dated 2 March 2010) have been submitted to and approved in writing by the Local Planning Authority. The development shall be carried out in full accordance with the approved scheme.

- 7) No development shall take place until samples and a schedule of materials to be used on the external surfaces of the buildings and elevational treatments of all buildings, including detailing and articulation, materials, finish and colours (including sample panels where appropriate) have been submitted to and approved in writing by the Local Planning Authority. This condition shall apply notwithstanding any indications to these matters that have been given in the application. The development shall thereafter be constructed in accordance with the approved details.
- 8) No development shall take place until details of the siting and design of all walls, fences, gates and other means of enclosure have been submitted to and approved in writing by the Local Planning Authority. Such walls, fences and gates as may be approved and as applicable to any phasing, shall be erected before the initial occupation of any of the dwellings of that phase, hereby permitted unless the prior written approval of the Local Planning Authority has been obtained to any variation of this timetable.
- 9) Notwithstanding any indications on the submitted drawings, no development shall take place until there has been submitted to and approved in writing by the Local Planning Authority a scheme of both hard and soft landscaping for the site, including 'green roofs and green walls'. These details shall include proposed finished levels or contours, means of enclosure, hard surfacing materials and other structures such as play equipment and play areas, refuse storage units, signs and lighting, and shall include an Implementation and Phasing Programme for both hard and soft landscaping works. Soft landscaping works shall include planting plans, written specifications, plant schedules and methodology, sizes, numbers and planting densities, including details of the form and depth of containers/planters to be sited over the slab of the basement car park and in public areas. Any trees, hedgerows or shrubs forming part of the approved landscaping scheme which within a period of five years from planting die, are removed or become seriously damaged or diseased shall be replaced with others of similar size and species, unless the Local Planning Authority gives written consent to any variation. The approved hard and soft landscaping shall be incorporated into the development in accordance with the agreed details and the agreed Implementation and Phasing Programme.
- 10) The development hereby permitted, or any phase as identified in the landscape Implementation and Phasing Programme, shall not be occupied until there has been submitted to and approved in writing by the Local Planning Authority a Landscaping Management Plan including long term design objectives, management responsibilities and maintenance schedules for all landscape areas illustrated on a drawing. The Landscaping Management Plan shall be implemented as approved and the scheme shall thereafter be maintained in accordance with the agreed details.
- 11) The retained Lime Tree (Tree 16 as illustrated in the Tree Survey Report) shall be protected during construction work strictly in accordance with the recommendations contained in the Arboricultural Method Statement dated September 2008 with particular regard to timing of operations, tree protection fencing and arboricultural supervision. All works shall comply with British Standard 5837:2005 '*Trees in Relation to Construction*'.
- 12) No development shall take place until a Sustainability Statement, in accordance with the principles contained in the application documents detailing (i) an energy strategy detailing provision for energy generation within the development (20%

- of which shall be from renewable sources) and (ii) measures to be incorporated within the new development to improve energy efficiency and to meet Code for Sustainable Homes Level 3/4 has been submitted to and approved in writing by the Local Planning Authority. The approved measures shall be incorporated into the development, or any phase of the development, prior to occupation and thereafter so maintained and independent verification provided to the Local Planning Authority within six months of completion of that phase.
- 13) Notwithstanding any indication on the submitted drawings no development shall take place until a schedule showing the number and location of cycle parking spaces and details of secure and sheltered cycle storage facilities (including their design and materials) has been submitted to and agreed in writing by the Local Planning Authority. The agreed facilities relevant to a phase of the development shall be fully implemented prior to occupation of any of the dwellings of that phase, and shall be permanently retained.
 - 14) The wheelchair accessible units shall be constructed to comply with the approved details in accordance with the Accessibility Statement Revision G (March 2010). The approved details relevant to a phase of the development shall be fully implemented prior to occupation of any of the dwellings of that phase, and shall be permanently retained.
 - 15) No development shall take place until details of all forms of external illumination and external lighting on the buildings and around the site, including the underground car park have been submitted to and approved in writing by the Local Planning Authority. The approved details relevant to a phase of the development shall be fully implemented prior to occupation of any of the dwellings of that phase, and shall be permanently retained.
 - 16) No plumbing or drainage pipes, or other service equipment other than rainwater pipes, shall be fixed to the front elevations of the buildings without the prior written approval of the Local Planning Authority.
 - 17) Prior to the first occupation of any of the development hereby approved, or of any phase, the car parking spaces shown on the approved drawings for that phase shall be laid out in accordance with details to be submitted to and approved in writing by the Local Planning Authority, and those areas shall thereafter be permanently retained, without obstruction, for car parking purposes in connection with the development.
 - 18) No development or demolition shall take place until wheel washing facilities for vehicles leaving the site during demolition and construction works have been installed on site in accordance with details submitted to and approved in writing by the Local Planning Authority. The facilities shall be used and maintained for the duration of the demolition and construction works.
 - 19) No development shall take place until an Environmental Mitigation and Management Plan to include details of biodiversity mitigation and enhancement measures, including recommendations for precautionary measures and further surveys (based on the recommendations contained in the Bat Assessment dated 10/12/09 and Walkover Survey received 16/11/09) and details of how the habitat enhancements will be implemented within the development, monitored, managed and funded in the future has been submitted to and approved in writing by the Local Planning Authority. The mitigation and enhancement measures shall be implemented in accordance with the agreed Environmental Mitigation and Management Plan.

- 20) No development shall take place until a drainage strategy detailing any on and off site drainage works has been submitted to and approved in writing by the Local Planning Authority. No discharge of foul or surface water from the site shall be accepted into the public system until the drainage works referred to in the strategy have been completed as relevant to a particular phase.
- 21) No development shall take place until Impact Studies of the existing water supply infrastructure have been submitted to and approved in writing by the Local Planning Authority. The studies should determine the magnitude of any new additional capacity required in the system and a suitable connection point and the residential and non-residential accommodation hereby permitted shall not be occupied and/or used until the approved works, as relevant to a particular phase, are in place.
- 22) No development shall take place until details of the proposed accesses to serve the development from Billet Road, Kimberley Road and Cheney Row including a timetable/phasing for the works have been submitted to and approved in writing by the Local Planning Authority. The residential and non-residential accommodation hereby permitted shall not be occupied and/or used until the highway works agreed by the Council have been completed, as relevant to a particular phase, in accordance with the agreed details and phasing.
- 23) No development shall take place until the applicant has secured the implementation of a programme of archaeological work in accordance with a written scheme for investigation which has been submitted to and approved in writing by the Local Planning Authority. The development shall only take place in accordance with the detailed scheme pursuant to this condition. The Archaeological works shall be carried out by a suitably qualified investigating body approved in writing by the Local Planning Authority.
- 24) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, (or any order revoking and re-enacting that order), no works shall be permitted under Part 1, Classes A, B, C, D, E, F, G and H and Part 42, Classes A, B and C without planning permission having first been obtained via the submission of a planning application to the Local Planning Authority.
- 25) Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 as amended, (or any order revoking and re-enacting that order), no windows or openings, other than those shown on the drawings hereby approved, shall be installed in any elevation (including the roofs) of any of the residential units (to include dwelling houses and flats) hereby permitted without planning permission having first been obtained via the submission of a planning application to the Local Planning Authority.
- 26) No infiltration of surface water drainage into the ground is permitted other than with the express written consent of the Local Planning Authority, which may be given for those parts of the site where it has been demonstrated that there is no resultant risk to controlled waters.
- 27) No development shall take place until a detailed surface water drainage scheme for the site, based on the principles set out in the Flood Risk Assessment (Environ January 2008 67-C12935) has been submitted to and approved in writing by the Local Planning Authority. The scheme shall subsequently be implemented in accordance with the approved details before the development, or the relevant phase thereof, is occupied. The scheme shall include:

- a) A clearly labelled drainage layout plan showing pipe networks and any attenuation ponds, soakaways, green roofs and drainage storage tanks. This plan should show any pipe 'node numbers' that have been referred to in network calculations and it should show invert and cover levels of manholes.
 - b) Confirmation of the critical storm duration.
 - c) Where on site attenuation is achieved through attenuation ponds or basins, permeable paving, green roofs and tanks, calculations showing the volume of these are also required.
 - d) Where an outfall discharge control device is to be used such as a hydrobrake or twin orifice, this should be shown on the plan with the rate of discharge stated.
 - e) Calculations should demonstrate how the system operates during a 1 in 100 year critical storm event, including an allowance for climate change. If overland flooding occurs in this event, a plan should also be submitted detailing the location of overland flow paths.
- 28) Notwithstanding any indications on the submitted drawings, no development shall take place until a Waste and Refuse Management Strategy incorporating full details of the measures to store and collect refuse and recyclable materials (including the design and construction of stores and the means of access for collection by refuse operatives and vehicles) from residential units, commercial units and community facilities, has been submitted to and approved in writing by the Local Planning Authority. The approved Strategy shall be implemented and the facilities shall be provided in accordance with the approved details, as relevant to a particular phase, prior to first occupation of any of the residential units hereby approved or any relevant phase, and/or first use or occupation of any of the non-residential uses.
- 29) No development shall take place until the following details have been submitted to and approved in writing by the Local Planning Authority: (i) A Ventilation/Extraction Statement (based on the submitted Statement dated September 2008) detailing the ventilation/extraction systems proposed for the commercial (non residential) floorspace including the restaurant (Use Class A3), café as part of the Community Forum, retail floorspace and commercial/business floorspace and the basement car park. Details shall include location, height, design and method of operation and maintenance of any external plant and proposed acoustic treatment to suppress any potential noise or pollution. The approved plant and attenuation measures, as relevant to a particular phase, shall be implemented prior to first occupation or use of the development or any relevant phase, and shall be thereafter fully maintained as detailed.
- 30) The noise of all new building services plant shall be controlled to a level 10db(A) below the typical underlying background level (LA90) during the time of plant operation at a position one metre external to the nearest noise sensitive premises. The underlying background LA90 shall be determined in the absence of the new plant noise. This assessment must be completed in accordance with BS4142:1997 '*Method for Rating Industrial Noise Affecting Mixed Residential and Industrial Areas.*'
- 31) No development shall take place until a revised Noise Report relating to the potential noise impacts upon the proposed development has been submitted to and approved in writing by the Local Planning Authority. This should include

further noise monitoring locations and the duration of monitoring periods and a scheme of mitigation measures including glazing requirements and ventilator options to be adopted specific to the most noise affected areas of the site. The approved mitigation and attenuation measures shall be implemented prior to first occupation or use of the development or any relevant phase and shall be thereafter fully maintained.

- 32) No development shall take place until details of compliance with the Council's Access for All Guidelines have been submitted to and approved in writing by the Local Planning Authority. The shopfronts and/or entrances to the non residential uses to include the commercial and retail units, Community Forum, the medical health facility and the crèche shall be included in the details in respect of providing step-free access (with no step or raised threshold) and entrance doors shall have a minimum clear opening width of 1000mm. The development shall be carried out in accordance with the agreed details.
- 33) The floorspace annotated on the submitted drawings as restaurant/café at ground floor level within Block A shall be limited to 248m² as included in the application documents and shall only be used for purposes within Use Class A3 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The use hereby approved shall only operate between the hours of 08:00 and 23:00 Mondays to Saturdays and 09:00 and 22:30 on Sundays.
- 34) The floor space as annotated on the submitted drawings as a Medical Health Centre at ground and first floor levels within Block E shall be limited to 1,000m² as contained in the application and shall be laid out in accordance with the approved drawings and be used only for the provision of health services within Class D1 and for no other use within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The use hereby approved shall only operate between the hours of 06:00 and 22:00 Mondays to Fridays, 08:00 and 20:00 on Saturdays and 10:00 and 18:00 on Sundays.
- 35) The floorspace annotated on the submitted drawings as a Community Forum at ground and first floor levels within Block A shall be limited to 631m² as included in the application documents and shall only be used as a Community Forum and for no other purposes within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The use hereby approved shall only operate between the hours of 06:00 and 23:00 Mondays to Fridays, 8:00am and 23:00 on Saturdays and 09:00 and 22:00 on Sundays.
- 36) The floorspace annotated on the submitted drawings as business/office floorspace on the upper floors of the Community Forum building in Block A as included in the application documents shall be limited to 910m² and shall only be used for purposes within Use Class B1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). The use hereby approved shall only operate between the hours of 07:00 and 22:00 on Mondays to Saturdays and 10:00 and 18:00 on Sundays.
- 37) The floorspace annotated on the submitted drawings as retail floorspace shall be laid out in accordance with approved plans and details included with the application and shall only be used for purposes within Use Class A1 of the Town and Country Planning (Use Classes) Order 1987 (as amended) and shall not be subdivided, combined or extended without consent having first being obtained from the Local Planning Authority. The use hereby approved shall only operate

between the hours of 6:00 and 22:00 Mondays to Saturdays and 09:00 and 21:00 on Sundays.

- 38) The building annotated on the submitted drawings for use as a crèche/nursery shall be laid out and used in accordance with the approved drawings and shall only be used as a crèche/nursery and for no other purposes within Class D1 of the Town and Country Planning (Use Classes) Order 1987 (as amended). Prior to the commencement of the use details of the proposed hours of operation shall be submitted to and approved in writing by the Local Planning Authority. The agreed hours of use shall thereafter be strictly complied with.
- 39) The surface parking areas and vehicle accessways shown on the approved plans shall be laid out prior to the first use/occupation of the part of the development hereby approved relevant to their use and shall not be used for any other purposes, or obstructed in any way.
- 40) No development shall take place until a Delivery and Service Plan (DSP) has been submitted to and approved in writing by the Local Planning Authority. The DSP shall provide for all deliveries/servicing to be undertaken between the hours of 07:00 and 19:00 and should seek to rationalise servicing with the aim of reducing the total number of trips made to avoid critical times on the road network and identify where safe and legal loading can take place. The approved DSP for the non-residential elements of the development shall be implemented in accordance with the approved details and shall thereafter be retained.
- 41) A Car Park Management Plan, detailing measures for the allocation and management of the car parking spaces provided with this development to serve the affordable and private housing shall be submitted to and approved in writing by the Local Planning Authority prior to first occupation of the residential element or relevant phase thereof. The development, or phase thereof, shall not be fully occupied until the scheme is fully implemented.
- 42) There shall be no general storage of items (including bicycles) on the balcony areas/roof terraces of any of the residential properties hereby approved and these areas shall not be used for the drying of washing.
- 43) As soon as is practicable, and prior to commencement of the development hereby approved, the developer shall submit a programme of works with the start date and duration of works. If construction is to take place during the Olympic Games, detailed plans should be submitted to and approved in writing by the Local Planning Authority to demonstrate how work will be carried out to avoid disruption to the highway network. Construction work that may affect the operation of the highway network during the Olympic Games includes; construction deliveries, licensing, service connections, temporary site hoardings, scaffolding, security, temporary traffic arrangements, movement of site vehicles, wheel washing facilities etc.
- 44) All units shall be constructed to comply fully with Lifetime Homes standards and the Council's Access for All requirements in accordance with the Accessibility Statement Revision B (February 2010). Step-free access (with no step or raised threshold) shall be achieved to all ground floor units and entrance doors shall have a minimum clear opening width of 900mm. Where ramps are necessary to provide such step-free access, they should have a maximum gradient of 1:20 and a level landing of a minimum 1.5m x 1.5m at either end of the ramp.
- 45) No development shall take place until a revised Air Quality Assessment containing any detailed mitigation measures to be included within the design and

- construction of the residential dwellings on the Billet Road frontage to reduce exposure to air pollutants has been submitted to and approved in writing by the Local Planning Authority. Any approved measures shall be implemented prior to first use/occupation of the residential units on the Billet Road frontage and shall thereafter be permanently maintained.
- 46) No development shall take place until a revised Air Quality Assessment detailing the emissions arising from the proposed energy centre (from the Biomass heating and/or Combined Heat and Power) has been submitted to and approved in writing by the Local Planning Authority. The mitigation measures shall be implemented in accordance to any approved details and shall thereafter be permanently maintained.
- 47) The biomass boiler must be certified as an exempt appliance under the Clean Air Act 1993. Evidence to demonstrate that the boiler has been certified as an Exempt appliance shall be provided to the Local Planning Authority prior to installation. This shall be supplemented with full technical details of the biomass boiler to include exhaust stack height and diameter.
- 48) Prior to the commissioning of the biomass boiler a written schedule of maintenance, which shall include removal of ash, inspection and maintenance of particulate arrestment equipment, annual boiler servicing and stack cleaning shall be submitted to and approved by the Local Planning Authority. The approved maintenance regime shall be fully implemented thereafter.
- 49) Every twelve months stack emissions testing shall be carried out by an independent registered consultant and the report submitted to the Local Planning Authority in writing. The report shall indicate the monitored emissions with comparison to the emissions data submitted and used in the Air Quality Assessment. Where emissions are found to be greater than the emissions data submitted and used in the Air Quality Assessment, a written report detailing the action to be taken to bring the emissions to those used in the initial Air Quality Assessment, shall be submitted to the Local Planning Authority. The report and corrective action shall take place within 21 days of the initial emissions testing. Failure to do so will require the biomass boiler to be switched off until the corrective action is completed and commissioned to bring the emissions within that stated in the Air Quality Assessment.