

ATLAS

PLANNING GROUP

PLANNING STATEMENT

Dukes Place, 246 Powder Mill Lane,
Twickenham, TW2 6EJ

July 2024

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Appendix A – Marketing Letter

Appendix B - Appeal Reference 3208237

1. INTRODUCTION

- 1.1 The Planning Statement has been produced by Atlas Planning Group in support of an application to the London Borough of Richmond seeking full planning permission for the conversion and alteration of two existing first floor flats to create three flats (2 x 1b1p, 1 x 1b2p).
- 1.2 This Statement will assess the development proposal in the context of adopted national and local planning policy, found within the National Planning Policy Framework (NPPF) (Dec, 2023), the London Plan and Richmond's Development Plan Documents.

2. SITE DESCRIPTION

- 2.1 The application site comprises a 3-storey mixed use building (retail at ground floor and residential above) and its associated grounds, built pursuant to planning permission ref 21/0156/FUL. Unit marketing began in July 2022 and individual units were completed starting in July 2023. All units were completed in October 2023. Unit 5, the primary subject of this application, has received virtually no interest despite over half of the units having received offers along with the various others which have received strong interest to purchase. Unit 5 remains unsold and vacant.
- 2.2 The application site is located on the north side of Powder Mill Lane and relates to a rectangular parcel of land which has been developed for residential use. The site is not located in a Conservation Area and does not relate to a Listed Building.
- 2.3 A similar but dated commercial premises with residential accommodation above sits to the north of the site, while to the south of the site across Powder Mill Lane, sits a mix of properties comprised of semi detached houses and flatted development up to 3 storeys in height. The residential properties are predominantly two storeys, albeit that some have sizeable pitched roofs.



Figure 1 - The application building

3 PLANNING HISTORY

3.1 The relevant planning history for this site is summarised below:

FULL PLANNING APPLICATION 21/0156/FUL

3.2 An application was submitted to the Council seeking permission for demolition of existing structures and the erection of a two buildings, consisting of a retail unit and community centre at ground floor and 15 residential units above, parking and associated hard and soft landscaping.

3.3 The application was approved in May 2022 and the development is now complete.

4 MARKETING & SALES HISTORY

4.1 The units created under permission 21/0156/FUL have undergone a rigorous marketing process since July 2022 well before completion of the development in October 2023.

4.2 In mid-2023, indications from the agents that the larger units were not generating enough interest at fair market prices lead to a material reduction in pricing in hopes for a result. Over a year has now passed and

the marketing of the larger units remains a significant concern. The letter from the Sales Agent (Dexters), included at **Appendix A**, sets out the marketing effort and challenges in more detail.

4.3 Despite being marketed by leading agents and on several physical and virtual platforms (High Street, Zoopla, Rightmove, etc) no larger unit has been sold at the time of writing. Four smaller units have been agreed prior to this submission and the goal of the application is to (a) respond to demand whilst (b) providing a contribution to affordable housing that would otherwise not be available.

4.4 Despite making up nearly 50% of the number of units within the development, only a single large family unit has been sold, which indicates that the demand for larger dwellings in this location is far less than the demand for smaller units.

4.5 Agents marketing the units within the development have also noted site specific considerations are likely to have contributed to the lack of interest in unit 5. This unit is the only larger family property within the development with its outside space directly facing the car parking area and the rear of a commercial property. This is less than ideal for a family dwelling but would not be a notable issue for a single occupant, as expectations between these types of unit differ. The outlook from unit 5 is shown in the figures on the following pages of this Statement.

4.6 The marketed values for the large family units were derived using the same methodology as those for the smaller 1 and 2-bed units, which further indicates that lack of demand, rather than values, is the key driver behind why the larger units have not been picked up.

4.7 Active marketing of all remaining large family units, including unit 5, is ongoing.



Figure 2 - Unit 5 faces towards the rear car park and the rear of the adjacent commercial property

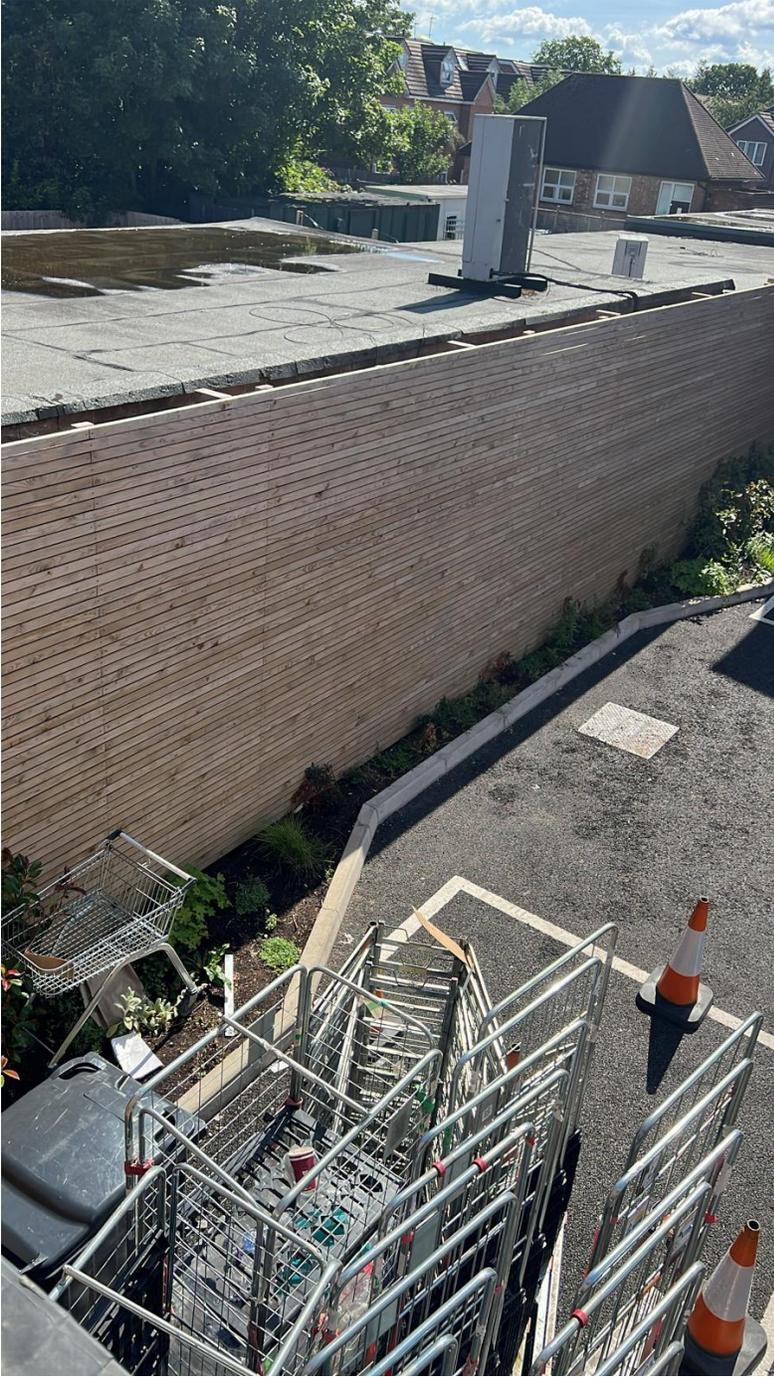


Figure 3 - Servicing for the GF retail unit is beneath the Unit 5 balcony

5. THE PROPOSAL

5.1 The application seeks the re-configuration and subdivision of Units 4 and 5 to create three units (net gain of 1 unit). The result of this will be a change in unit mix from 1 x 1b2p and 1 x 3b5p as existing, to 1 x 1b2p and 2 x 1b1p. This responds to the lack of demand for the existing 3 bedroom unit and provides a more suitable mix of smaller units for the local area, whilst still ensuring that all occupiers will benefit from a high standard of residential amenity.

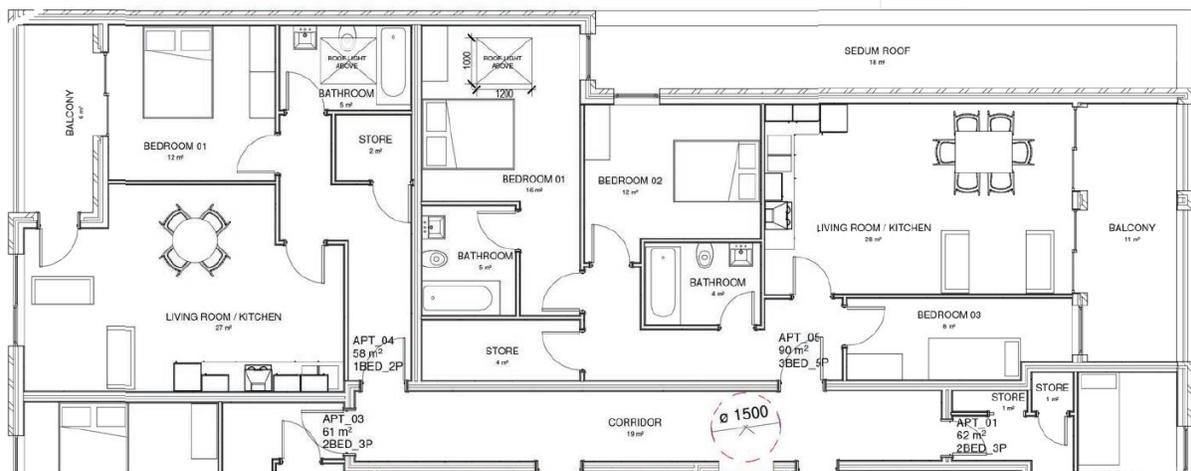


Figure 4 - Existing Floor Plan

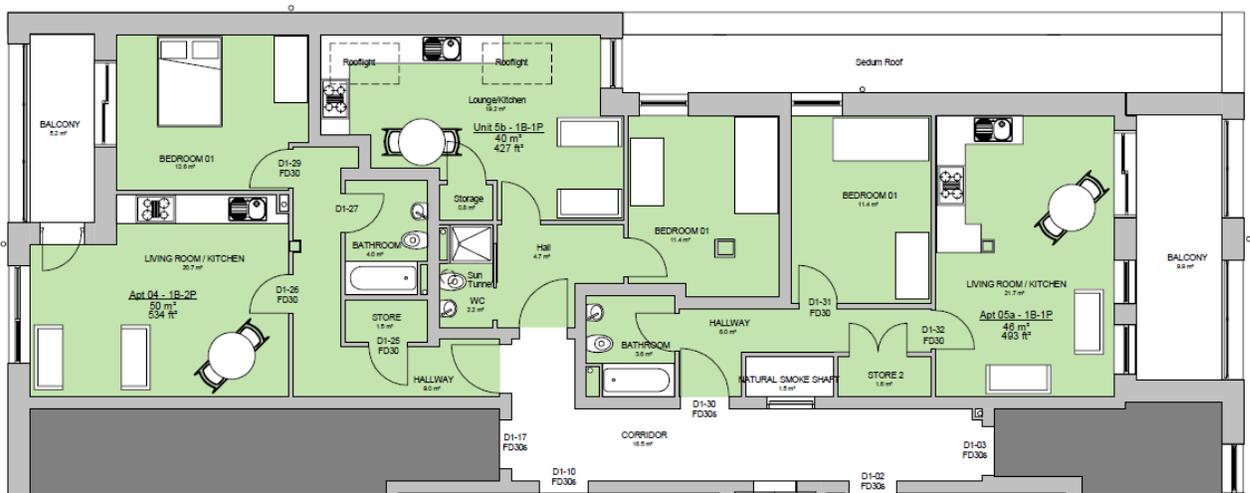


Figure 5 - Proposed Floor Plan

5.2 Externally, only minor alterations are proposed to facilitate the subdivision, with a single additional window inserted on the northern elevation.



Figure 6 - Proposed north elevation with single window added

5 PLANNING CONSIDERATIONS

PRINCIPLE OF DEVELOPMENT

5.1 Chapter 5 of the NPPF (Dec, 2023) makes it clear that a key Government objective is ‘*significantly boosting the supply of homes*’, and to achieve this, it is ‘*important that a sufficient amount and variety of land can come forward where it is needed, that the needs of groups with specific housing requirements are addressed and that land with permission is developed without unnecessary delay. The overall aim should be to meet as much of an area’s identified housing need as possible, including with an appropriate mix of housing types for the local community.*’ (para 60).

5.2 The new Labour Government has made a manifesto pledge of delivering 1.5 million homes within this Parliament, and so whilst we await a new / updated NPPF, it is clear that delivery of new homes will remain at the forefront of their aims for the planning system.

5.3 Policy GG4 of the London Plan also recognises the need for more homes in London to promote opportunity and choice in ways that meet their needs at a price that is affordable. This policy promotes the

optimisation of housing output within different types of location, while also encouraging the provision of a range of housing choices to provide suitable accommodation for groups of people with different needs.

5.4 Policy LP34 of the Richmond Local Plan sets a target for the borough of creating 3,150 new homes between 2015-2025 as a strategic objective, with the supporting text stating that proposals should optimise the potential of sites and the majority of housing delivery is expected to be on previously developed land.

5.5 The proposal would result in the net gain of 1 new home and would therefore contribute towards meeting these objectives.

AFFORDABLE HOUSING

5.6 Policy LP36 sets out that a contribution towards affordable housing is expected on all housing sites including those for conversions or reversions. As the proposal involves less than 10 units, a financial contribution will be expected instead of on-site provision of affordable housing. The financial contribution that would be sought would be discounted to represent 12% affordable housing, given the proposal is for three units created by converted floorspace (gross).

5.7 Accordingly, a financial contribution of £54,829 has been calculated and is offered.

QUALITY OF ACCOMMODATION

5.8 Policy LP35 (B) requires new housing to comply with the nationally described space standard (NDSS) The NDSS states the following:

Table 1 - Minimum gross internal floor areas and storage (m²)

Number of bedrooms(b)	Number of bed spaces (persons)	1 storey dwellings	2 storey dwellings	3 storey dwellings	Built-in storage
1b	1p	39 (37) *			1.0
	2p	50	58		1.5
2b	3p	61	70		2.0
	4p	70	79		
3b	4p	74	84	90	2.5
	5p	86	93	99	
	6p	95	102	108	
4b	5p	90	97	103	3.0
	6p	99	106	112	
	7p	108	115	121	
	8p	117	124	130	
5b	6p	103	110	116	3.5
	7p	112	119	125	
	8p	121	128	134	
6b	7p	116	123	129	4.0
	8p	125	132	138	

5.9 The proposal seeks to create 2 x 1b1p units, sized at 40sqm and 46sqm respectively, and one 1b2p unit, sized at 50sqm. All habitable rooms have been designed with good access to natural light and ventilation. The application is also supported by a Sunlight and Daylight Assessment which concludes that *“overall, the potential for natural light within the Proposed Development will be excellent and in line with the design principles out in BRE Guidelines.”*

5.10 Policy LP8 outlines that developments will be required to protect the amenity and living conditions of the new occupants of the building. In terms of external amenity space, standards are set within the Residential Development Standards SPD. This seeks a minimum of 5 sqm of private outdoor space for 1-2 person dwellings plus an extra 1 sqm for each additional occupant. Unit 4 as proposed maintains a 5.2sqm balcony, and Unit 5a benefits from a balcony of 9.9sqm.

5.11 Unit 5b does not benefit from private amenity space. However, this will be one of the smallest units in the building and as such will not provide family accommodation, and the occupier will have access to the communal outdoor amenity space on the second floor of the building.

5.12 Notwithstanding this, the site is also in close proximity of Heathfield Recreation Ground (approximately 360m / 4-minute walk). This public open space will also ensure that future occupiers can enjoy suitable outdoor space.



Figure 7 - Heathfield Recreation Ground in close proximity to the site

5.13 Indeed, in considering this point in the earlier planning appeal on the site, as there are other units in the building without private external amenity space, the Planning Inspector stated *“Furthermore, there would be a reasonably large communal sedum roof space on the 2nd floor. I also note that the Council agrees that the development would be within walking distance of the Heathfield Recreation Ground and this would therefore provide convenient access to public open space for all residents.”* (Ref: 3253387).

5.14 This rationale has been further supported by the Inspector in another recent appeal (Ref: 3208237 – Appendix B), when it was stated *“While there is no external amenity space within the appeal site for the occupiers of the flats the site is within a short walk of the River Lee amenity corridor. This area provides an easily accessible area of amenity space. As such, I consider the lack of onsite amenity space for studio units and a one bedroom unit is not unacceptable.”*

HOUSING MIX

5.15 Policy LP35 (A) states that the unit mix should be appropriate to the location, however it seeks a higher proportion of small units (studios and 1 beds) in sustainable main centre locations and Areas of Mixed Use. The site is within an Area of Mixed Use (Hanworth Road) and Heathside is a neighbourhood centre in the borough’s centre hierarchy.

5.16 As such, the unit mix proposed should be considered acceptable in this instance. It is worth noting that the marketing evidence correlates with the policy expectations – in this area there is reasonable demand for smaller units, but very little for larger or family sized units.

IMPACT UPON NEIGHBOURS

5.17 Policy LP 8 of the Local Plan outlines that in considering proposals for development, the Council will seek to protect adjoining properties from unreasonable loss of privacy, pollution, visual intrusion, noise and disturbance.

5.18 This proposal includes just one additional window in the norther elevation, which faces a commercial yard, and is set back from the building edge, limiting views of adjoining neighbours to the north in any case.

IMPACT UPON HIGHWAYS

- 5.19 Paragraph 111 of the NPPF states that development should only be prevented or resisted if the residual or cumulative impacts on the highway would be severe. Local Policy LP 45 details the Council's '*Parking Standards and Servicing*' requirements details how new development must make provision for the accommodation of vehicles in order to provide for the needs of the development whilst minimising the impact of car-based travel.
- 5.20 As a requirement of the previous permission on the site (Ref: 21/0156/FUL) a Car Park Management Plan was submitted to the LPA, and approved. This stated that only 4 car parking spaces would be allocated to the 15 residential units, which preferential provision of permits to those living within accessible units.
- 5.21 None of the units concerned are accessible units, so would not have benefited from on site car parking, and it is likely that removal of a 3 bedroom unit and replacement with 2 x 1 bedroom units will only reduce parking demand.
- 5.22 In terms of cycles, 34 secure, long stay cycle parking spaces and 12 additional short-stay parking spaces in the forms of Sheffield stands were provided as part of the earlier development (Ref: 21/0156/FUL), meaning that there is already more than sufficient provision to accommodate the proposed development.

6 CONCLUSION

- 6.1 This Planning Statement supports an application for the re-configuration and subdivision of Units 4 and 5 to create three units (net gain of 1 unit), owing to lack of demand and mismatch of product vs benefits required by future occupiers of larger units.
- 6.2 The The proposed development has been assessed against all relevant planning policies, contained within the National Planning Policy Framework, the London Plan and Richmond's Development Plan Documents. Following this assessment, it is clear that the planning balance lies in favour of granting permission for the proposed development.

6.3 We therefore commend the proposals to you.

Appendix A – Marketing Letter

To whom it may concern:

Dexters Land & New Homes has been supporting the redevelopment of the former Duke of York pub on Hanworth Road & Powder Mill Lane for nearly 24 months. This location will provide high quality homes for future occupiers in the Borough of Richmond. My agency teams have successfully conducted callouts and hundreds of viewings. I have been asked to provide a summary of my thoughts on the success of the scheme thus far and any challenges faced. In this regard, I believe there are 4 key points to highlight:

1) There has been high demand for the smaller 1bed units at the scheme (with the most critical driver here being mortgage rate affordability; it is higher for smaller properties). Within the scheme's mix there are a limited number of 1beds (only 2 out of 15); and these units have attracted a varying array of young professionals eager to take advantage of the bespoke nature of the scheme (ie: small/intimate, high quality in design, energy efficient and close to new bus transport links recently activated on Powder Mill Lane). None of the occupiers seemed to focus much on outside or garden space as a more mature / family buyer would do.

2) Demand for the large family units (90sqm+ 3beds) has been significantly lower than could be reasonably expected. In particular, this inventory at the site has traffic & commercial activity exposure which is higher than normal (given the site is on the corner of two busy roads within the borough). This drawback most negatively impacts Unit 5 in particular, which is the largest unit within the development. In our opinion as agents, this is largely due to larger family units typically attracting older families who require quieter settings, more study space and larger safe & self-contained outside spaces where older children can play independently.

3) The developer has been reasonable with respect to pricing and priced firmly in line with fair market value in our opinion. This is demonstrated by virtue of sales rates having been successful on the 2bed units. Unfortunately, larger family units have thus far achieved a success rate of 0% after nearly 18 months of marketing. Traffic exposure, as well as the type of accommodation (larger flats vs a vast local supply of smaller semidetached houses) has been the primary issue in our opinion with respect to larger units - vs smaller units where traffic is far less of a concern for the younger professional occupiers.

4) My team at Dexters have also pushed for price reductions on several larger units & the developer has agreed to these reductions however the strategy unfortunately did not have the impact of creating incremental viewer traffic after potential occupiers reviewed floorplans of the larger units. In our experience as agents, this indicates that price is not the problem, but product (which is not suitable for the target audience). The nature of the product is incorrect when paired with the nature of the pool of potential occupants in our opinion.

We are happy to share viewing logs or any further information with concerned parties on this matter and are available to speak by phone if necessary.

Best Regards,



Anna Truman
New Homes Director

Appendix B - Appeal Reference 3208237



Appeal Decision

Inquiry Held on 19 & 20 September and 7 November 2019

Site visit made on 20 September 2019

by Mrs H M Higenbottam BA (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 26 May 2020

Appeal Ref: APP/U5360/C/18/3208237

Land at Unit 2 Ravendale Industrial Estate, Timberwharf Road, London N16 6DB

- The appeal is made under section 174 of the Town and Country Planning Act 1990 as amended by the Planning and Compensation Act 1991.
- The appeal is made by Avon Group of Companies against an enforcement notice issued by the Council of the London Borough of Hackney.
- The enforcement notice was issued on 27 June 2018.
- The breach of planning control as alleged in the notice is 'Without planning permission, the change of use from warehouse to self contained flats and associated external alterations, namely the addition of an external staircase to the Western elevation, single storey extension to the Western elevation and the installation of new windows, doors and roof-lights.'
- The requirements of the notice are:
 - Cease the use of the property as self-contained flats;
 - Remove all partitions, doors, facilities, fixtures and equipment that facilitate the unauthorised use of the property as flats;
 - Remove all roof-lights and restore the roof in materials to match the roof form before the unauthorised development was carried out;
 - Remove all windows and doors inserted on the external facings of the property associated with the unauthorised change of use and restore the property to its design and appearance before the unauthorised development was carried out;
 - In fill and restore the north facing elevation using materials to match the appearance of the property before the unauthorised development was carried out;
 - Demolish the single storey rear extension and external staircase and make good the western elevation to its appearance before the unauthorised development was carried out;
 - Remove all materials, debris, waste and equipment resulting from compliance with the other requirements of the notice from the property and its premises.
- The period for compliance with the requirements is ten months.
- The appeal is proceeding on the grounds set out in section 174(2) (a), (c), (f) and (g) of the Town and Country Planning Act 1990 as amended.

Summary of Decision: The appeal is allowed subject to the enforcement notice being corrected and varied in the terms set out below in the Formal Decision.

Application for costs

1. At the Inquiry two application for costs were made. The first by Avon Group of Companies against the Council of the London Borough of Hackney and the

second by the Council of the London Borough of Hackney against Avon Group of Companies. These applications are the subject of separate Decisions.

Preliminary matters

2. On 7 November 2019 the appellant verbally withdrew the ground (f) appeal at the Inquiry. This was confirmed in writing by email on the same date.
3. The Statement of Common Ground confirms that subject to safeguarding measures in the form of obscure glazing and fixed windows to the ground floor on the north facing elevation of the building, no adverse amenity effects would result from the development.
4. The numbering of the flats I will refer to in the decision is that agreed at the Inquiry. Units 1-10 are on the ground floor of the building and Units 11 to 25 are on the first floor of the building.

The Notice

5. The allegation refers to a change of use and associated external alterations. This was explored at the Inquiry as to whether or not the allegation sought to attack the 'associated external alterations' as part and parcel of the change of use or as a separate breach of planning control.
6. In the judgement in *Kestrel Hydro v SSCLG [2015] 1654 (Admin)* it was confirmed that in an enforcement notice directed at a breach of planning control relating to a change of use it may require the building in question to be restored to its condition before that change of use took place by the removal of associated works as well as the cessation of the use itself. In *Somak Travel v SSE [1987] JPL 630* it was also confirmed that a notice directed at a material change of use may require the removal of works integral to and solely for the purpose of facilitating the unauthorised use, even if such works on their own might not constitute development, or be permitted development or be immune from enforcement action, so that the land is restored to its condition before the change of use took place. Clearly, therefore works, including works which do not fall within the meaning of development set out in section 55 of the Act may be required by an enforcement notice to be removed, where they facilitate the material change of use attacked by the enforcement notice.
7. Works that facilitate a change of use need not be referred to in the allegation and can simply be required to be removed within the requirements of a notice. That is not to say that when they are included in the description of the allegation, that the notice is necessarily directed at a use and operations separately. In this case, the external alterations are clearly referred to as being 'associated' with the change of use. In considering the submissions by both parties, I am of the view given the wording, that the allegation is for a change of use and that the reference to external works in the allegation is for external works which facilitate the change of use rather than separate operational development. As such, I consider that the notice is not a hybrid but a pure change of use allegation.
8. At my site visit I noted that there were additional external works which are not listed in the allegation, namely two staircases on the southern elevation: the first leading to the entrance to Units 4 and 5 and the second leading to Units 6 and 7 on the ground floor. Given the other external staircases are

expressly referred to as associated works in the allegation, it would have been reasonable to expect all external facilitating works to be included in the allegation. As such, I consider that the allegation does not attack the staircases to Units 4, 5, 6 and 7.

9. The requirements are less than clear in the reference to facilities, fixtures and equipment that facilitate the unauthorised use of the property as flats as this could be internal or external. The requirements should follow on from the allegation. In light of my view on the staircases to Units 4, 5, 6 and 7 I will vary this requirement to refer to internal facilities, fixtures and equipment. This will achieve greater clarity and consistency with the allegation. I consider this be unlikely to result in injustice and prejudice to either party.
10. The parties agreed that the allegation should refer to a 'material' change of use. I will correct the Notice to that effect. This would cause no injustice to either party.
11. The Council submitted a true copy of the Notice and plan at the Inquiry. No plan is referred to in the Notice, but it was clearly served with it. The site is outlined in black and hatched black on the plan. I will vary the Notice to refer to this plan, which is attached at the end of this decision.

Appeal on ground (c)

12. This ground is that what is alleged does not amount to a breach of planning control. In the light of my findings in the preceding paragraphs this ground relates solely to the change of use of the building to residential units. The external alterations are not separately alleged unauthorised development, only as works that facilitate, and are part and parcel of the material change of use. As such, it is not necessary under ground (c) to consider whether those external works amount to development under section 55 of the Act.
13. Class P of Part 3 of Schedule 2 of The Town and Country Planning (General Permitted Development) (England) Order (GDPO) as amended sets out that development is classed as permitted development if it consists of a change of use of a building and any land within its curtilage from a use falling within Class B8 (storage or distribution centre) of the Schedule to the Use Classes Order (UCO) to a use falling within Class C3 (dwellinghouses) of that Schedule.
14. Limitation P2 sets out conditions which must be met in relation to prior approval requirements and notifications. It also applies the provision of paragraph W to the prior approval application. There are no associated rights to carry out any associated building or other operations.
15. In relation to Class P, there is no requirement that the written description of the proposed development must include details of any building or other operations (W(2)(a)). However, paragraph W (9)(c) states that a local planning authority may require the developer to submit such information as the authority may reasonably require to determine the application which may include details of proposed building or other operations. No such details were requested. In any event, as Class P relates to the material change of use of a building only and so cannot grant planning permission for building or other operations that constitute development.

16. The appellant has submitted various prior approval notifications (PANs) and planning applications at the appeal site. I will refer to only those relevant to the appeal.
17. The first relevant PAN (reference 2016/2941) (PAN1) was dated 1 August 2016 and was for the upper floor of the building. It was for 15 x 1 bed mezzanine residential units. Prior approval was granted by the Council on 28 September 2016. It was subject to four conditions. The first required prior to commencement, full particulars and details of provisions for soundproofing. The second required that prior to occupation an amended site plan should be submitted and approved to include bicycle, refuse storage, to prevent car parking for the development and landscaping. The third condition required the development to be carried out in accordance with the details submitted and the fourth stated the use of the building was within Class C3 (dwellinghouses). The submitted and approved plans were a site plan and floor plans. The proposed floor plans showed an internally subdivided building for 15 units with a mezzanine level.
18. The second relevant PAN (reference 2016/4547) (PAN2) was dated 7 December 2016 and was for the ground floor of the building. It was for ten studio units. The Council refused the application on 2 February 2017. However, the Council note that the refusal notice was issued on the 57th day following receipt of the valid application and therefore the proposal benefitted from deemed consent under the provisions of paragraph W Part 3 Schedule 2 of the GPDO. The proposed floor plans related solely to the internal layout.
19. The appellant did not discharge condition 1 prior to commencement of the development or condition 2 prior to occupation of the development of PAN1. However, the internal layout of the units complies with the plans submitted and approved under both PAN1 and PAN2.

PAN1 Condition Precedent Issue

20. The appellant submitted details pursuant to Conditions 1 and 2 of PAN1 dated 15 September 2017 (reference 2017/3682). This application for the discharge of conditions was refused by decision dated 13 November 2017. The reason for refusal was that PAN1 had not been implemented lawfully and as such it was not possible to discharge the conditions attached to prior notification 2016/3682. There is nothing within the determination to suggest the details were not acceptable to the Council.
21. While the wording of Condition 1 of PAN1 requires details to be submitted and agreed prior to the commencement of the development; the appellant considers that it does not go to the heart of the permission. However, in my view, soundproofing is a fundamental of the design of the residential units and not something that can be added after the internal alterations are carried out to create the residential units. As such, it is at the heart of the development. I therefore consider that the soundproofing required in Condition 1 of PAN1 is a condition precedent.
22. Condition 2 of PAN1 was not a condition precedent as the wording required the various matters prior to first occupation.

23. In the light of my finding in relation to Condition 1 of PAN1 the development approved has not been lawfully implemented and as such the appeal on ground (c) fails in relation to the upper floor of the building.

Has PAN2 been lawfully implemented?

24. Class P grants permission for the change of use of the building to residential subject to the limitations and conditions of that class only and no building operations.
25. The appellant did not apply for planning permission for building operations prior to those building operations having been carried out. The building operations could not be considered in relation to PAN2 because Class P relates solely to a material change of use and internal layout only. To implement PAN2 lawfully, the limitations and conditions of the permission and the layout must be complied with. Any operational development carried out is not within the scope of a permission pursuant to a prior approval under Class P. Any operational development which is unauthorised, whether associated with a material change of use or not, could be the subject of enforcement action as a separate breach of planning control.
26. Two retrospective planning applications were submitted (reference 2017/4205 and 2017/4205). The application reference 2017/4205 differed to the first in that it had no north facing windows proposed. Both were validated on 13 November 2017 and determined on 18 May 2018. The determination was shortly after an Article 4 direction which withdrew permitted development rights under Class P for the whole borough which was confirmed on 14 May 2018. That planning application sought retrospective planning permission for the external works which had been undertaken or, at the time of the application being submitted, were in the course of being undertaken. There is clearly an error on the application form because at question 14 the existing use is described as B8 -Storage and Distribution, although the covering letter dated 17 October 2017 from the agent states that applications 2016/4547 and 2016/3048 for the change of use of the building to residential have not yet been fully implemented. I note that the Council was well aware that the appellant was converting the building to residential use at the time as the Officer report recommending enforcement action records that following a site visit on 18 July 2017 *'it was noted there was ongoing construction at the property. The warehouse had been converted into separate self-contained units not yet occupied following the approval of both 2016/4547 and 2016/3048.'*
27. In the current case the appellant sought to implement the PANs and carried out unauthorised building operations either before, in the case of the installation of rooflights, or during and after carrying out internal works to alter the building to the internal layout of the authorised change of use pursuant PAN2.
28. The Council seek to rely on Sage v SSETR [2003] 1 WLR 983 to support their contention that PAN2 was not lawfully implemented. I am not satisfied that this judgement provides a basis for finding PAN2 was not lawfully implemented. Sage was concerned with the time limits for taking enforcement action and operational development. It is important to note that the judgement refers to planning consent for permission for a single operation and that it is made in respect of the whole building operation. In the context

of Sage, it was found that if a building operation is not carried out both externally and internally fully in accordance with the permission the whole operation is unlawful. In the case of PAN2 no building operations were authorised by the permission because Class P specifically excludes building operations. The internal subdivision of the building and the layout of the units accords with the plans submitted with PAN2; the deviations relate solely to external alterations which could not have formed part of PAN2 in any event.

29. The Council also refer to *Evans v SSCLG* [2014] EWHC 4111 (Admin) which concerns application of paragraph A.2 (c) of Class A or Part 1 of Schedule 2 and Article 3(5) of the GPDO. The case was concerned with extensions to a dwellinghouse. The appellant is not claiming all the external works are lawful or permitted development in the current case. As stated above in relation to Sage, no building operations were permitted in PAN2 so therefore the approved plans of PAN2 relate only to the layout internally for the residential use permitted. Any works beyond internal layout do not form part of the PAN2 approval. I find that the *Evans* judgement does not support the contention that the carrying out of the external works resulted in the permission granted by PAN2 not being implemented; both could co-exist. It is merely the external works that are unauthorised.
30. In my view, the principle of residential conversion of the ground floor of the building the subject of this appeal to 10 residential units was established by PAN2. The building operations, while unauthorised were outwith the approvals of PAN2 because building operations do not form part of the permission granted under Class P. I find that the limitations and conditions of Class P and W of the GPDO have been complied with and the change of use of the ground floor is lawful. I consider that the planning permission granted under Article 3 and Class P of Schedule 2 of the GPDO for the ground floor of the building was lawfully implemented.

Conclusion

31. The appeal on ground (c) succeeds in relation to the ground floor units only: Units 1 to 10 inclusive. I will therefore correct both the allegation and the requirements of the notice to exclude the ground floor Units 1 to 10 and refer only to windows and door at first floor level. The other associated works referred to in the allegation as corrected relate to the first-floor residential units.
32. I find that the first floor units, Units 11 to 25, were not in accordance with the conditions and limitations of PAN1 and are unauthorised, as such the permission was not implemented and no planning permission has been granted for the material change of use or the external works associated with the first floor residential use.

Appeal on ground (a)

33. The ground (a) appeal relates to the residential use of Units 11 to 25 on the first floor and to the associated external works to the first-floor or in conjunction with the first-floor residential use. These are: an external staircase to the western elevation; single storey extension to the western elevation; and the installation of new windows, doors at first floor level and roof-lights.

Main Issues

34. The Council have not identified any objections to the external works other than they facilitate the material change of use of the building to residential. There are no objections in respect of the form or use of materials. As such, I consider that the main issues relate to the use itself and not the external alterations. Thus, the main issues in considering the ground (a) appeal are:
- whether Units 11 to 25 would provide acceptable living conditions for the occupiers and future occupiers with particular reference to layout, outlook, room sizes and amenity space;
 - whether the mix of dwelling sizes is appropriate; and
 - whether there is justification for the loss of employment land.

Reasons

35. The appeal site comprises a two-storey building with an external yard. It is within a larger complex of buildings/site which comprises the Ravendale Commercial/Industrial Estate. The estate is accessed from Timberwharf Road on the corner where the road meets Fairweather Road. The site is to the east of South Tottenham and it lies adjacent to Warwick Reservoirs.

Living conditions for occupiers and future occupiers

36. The first-floor units are accessed via a communal corridor with most opening into a hallway/lobby. In Units 12 to 25 each bathroom comprises a shower, toilet and basin off the hallway. The hallway opens into an open plan living and kitchen area. A staircase then leads to a mezzanine area where there is space for a double bed and some storage whether provided as wardrobes, hanging rails or chest of draws. The kitchens have adequate space for all necessary appliances, including fridges/fridge freezers. Each unit has rooflights and those on the southern elevation have windows. Unit 11 has a different arrangement with a separate bedroom.
37. The appellant has submitted a Housing Health and Safety Rating System Report. The author undertook a Housing Health and Safety Rating System Survey and assessment for fitness for habitation. The report covered all 25 units within the building. It identified some deficiencies which were addressed by the landlord and the report concludes, that all flats are well designed to make effective use of the space producing safe and reasonably spacious studio style flats. It notes that the mezzanine floor flats have been designed with additional fire precautions with a water suppression system. In relation to natural lighting, the first-floor flats are found to be acceptable. All flats are noted as having ample natural and mechanical ventilation with well-designed facilities for the preparation and cooking of food.
38. I heard evidence from occupiers of some of the flats that they found the size of the units, the level of fittings, fixtures and quality of the units very good. Each witness explained their difficulties in finding suitable accommodation for their needs and at a rent acceptable to their needs. All who spoke referred to it being the best units they had lived in in London. While this is the evidence of only some of the residents who occupy the flats, it was clear that they all considered the units they rented to be high quality and suitable for their needs. This supports my own findings in relation to the quality of the units.

39. Policy 3.5 The London Plan (adopted March 2016 and consolidated with alterations since 2011) requires housing development to be of the highest quality and sets out minimum space standards in Table 3.3. In the case of a one-bedroom unit for one person with a shower room the minimum size is stated to be 37 sqm. However, I accept that these standards are not applicable to units that do not have a bedroom but are studio units. The draft London Plan document provided at the Inquiry was the document prepared for the Draft London Plan EiP Panel and included changes put forward by the Mayor of London up to the end of the EiP. The minimum space standards have a footnote that states where a studio/one single bedroom one-person dwelling has a shower room instead of a bathroom the floor area may be reduced from 39 sqm to 37 sqm. This is an emerging policy, to which I give limited weight.
40. Flat 11 has a floor area of 47 sqm and all the other flats on the first floor have a floor area of 35 sqm. Flat 11 has a different layout to the other units and includes a space that appears as a large bedroom on the upper level. The bathrooms and kitchens, with sufficient space for storage of cooking equipment and provisions as well as appliances, were clearly useable and attractive spaces. All first-floor flats benefit from roof lights and the flats I visited were light and airy. The flats on the south and west side of the building benefit from windows to the living areas with rooflights to the bedrooms on the mezzanine floor. Flats to the north side (Nos 13, 15, 17, 19, 21, 23 and 25) have roof lights to living areas and bedroom mezzanine area. Flat 11 meets the floorspace requirement for a one-bedroom unit in the London Plan. The other units are studios without any walls dividing the sleeping area from the rest of the unit and do not have a bedroom within them as such. In the light of this I consider these units are not in breach of the minimum space standards of the London Plan, although I accept they are 2 sqm below the minimum for the emerging draft London Plan.
41. The layout of the units is efficient and the units I visited had internal storage and space for the belongings of their occupiers. The standard of finish appeared good. Due to the similar layouts in other flats I have no reason to believe light levels would be any different and am satisfied that the first floor flats have good levels of light within them and provide an attractive well designed residential unit for each of the occupiers.
42. Policy DM1 of the Hackney Development Management Local Plan (adopted July 2015) (DMLP) requires development to be of high quality design and DMLP Policy DM2 requires residential development to be well designed and not lead to substandard layouts, unit sizes, room sizes or awkward room shapes and provide private amenity space.
43. In my view, the first-floor studio Flats 12 to 25 are well designed and of high quality. I find that the units provide good facilities for the occupiers, albeit they are bedsits/studio units. This is as a result of careful layout and the height of the units, utilising a mezzanine level. The use of rooflights taken together with the height of the units creates a positive airy and well-designed space. Flat 11 is a larger one bedroom flat providing good space and layout.
44. While there is no external amenity space within the appeal site for the occupiers of the flats the site is within a short walk of the River Lee amenity corridor. This area provides an easily accessible area of amenity space. As

such, I consider the lack of onsite amenity space for studio units and a one bedroom unit is not unacceptable.

45. I therefore find that the Units 11 to 25 provide acceptable amenities and living conditions for existing and future residents.

Mix of dwelling sizes

46. DMLP Policy DM22 is an aspirational policy seeking a mix of dwellings in accordance with the Council's preferred dwelling mix. The Council's preferred dwelling mix requires 33% of 3 bedroom or more units and provision of 2 bed units to be a higher percentage than 1 bed units. However, the policy does allow for variations dependent on site and area location and characteristics and scheme viability.
47. The appeal building is located in part of an industrial area, albeit there are other residential units in other parts of the wider site. The anecdotal evidence is that the units are desirable and provide much needed residential accommodation. The mix of tenants and the commercial units appear to have coexisted well. However, I am not satisfied that the location is one that would be suitable for larger units or for occupants with children due to the proximity of those commercial units, with access via the private road that serves the commercial units. In my view, the mix of units on this site, studio and one bedroom, is acceptable. I therefore consider that due to the location and character of the units, that the size and mix of units is appropriate to its location and that consequently it is not contrary to DMLP Policy DM22.

Loss of employment land

48. The appellant has stated that the last commercial use of the building was for document storage between 2007 and 2014. There was a single employee shared with four other units on the industrial estate.
49. DMLP Policy DM14 sets out the criteria that need to be satisfied for redevelopment proposals. It requires that the maximum economically feasible amount of employment land and floorspace possible has been examined through the submission of marketing evidence. When this has been demonstrated additional robust marketing evidence is required which demonstrates that there has been no demand for the existing or vacant land and floorspace.
50. Some marketing of the site was undertaken from June 2015 to April 2017, albeit the Council considers it is only about 16 months of marketing. The commercial agent is stated to have 'persuaded' seven potential occupiers to view the premises, but no real interest emerged. The reasons for the lack of interest are stated by the appellant to be linked to location, layout and availability of better more modern premises.
51. The National Planning Policy Framework (the Framework) supports a positive approach to applications for alternative uses of land which are currently developed but not allocated for a specific purpose in plans where this would help meet identified development needs. In particular, it supports development of employment land for homes in areas of high housing demand, provided it would not undermine key economic sectors or sites and be compatible with other policies in the Framework.

52. The site is not within a Priority Employment Area or Locally Significant Industrial Site and the Council has acknowledged that the Ravensdale Estate has been undermined by residential led permissions with permissions for mixed use with residential components. Moreover, limitation P.2 (b) (vi) of Class P of the GDPO allows a local planning authority to require prior approval where, inter alia:

'the authority considers the building to which the development relates is located in an area that is important for providing storage or distribution services or industrial services or a mix of those services, whether the introduction of, or an increase in, a residential use of premises in the area would have an adverse impact on the sustainability of the provision of those services'

As such, the Council did not at the time of determining PAN1, consider that the building was located in an area important for providing storage or distribution or industrial services as no prior approval was required in those terms. This is reinforced by the fact there is no employment designation of the site in which the building is located, and the evidence of marketing supports the contention that there is a lack of demand for this type of building for storage uses.

53. The character of the wider area is an eclectic mix of commercial and residential development. The industrial estate is served by a private road to about half a dozen industrial units to the north and south of the road. The appeal building is not seen from the Timberwharf Road. In my view, the mix of residential and commercial units in the immediate area limits the types of activities that would be able to be accommodated within it. It is clearly a historic employment site but due to the immediate road network, limited areas for parking, turning and loading within the site there is likely to be conflict with existing commercial units on the site if the building were to be required to be retained as a storage use. It is also an unmodernised building.
54. I therefore find conflict with DMLP Policy DM14 in that the building has not been marketed for a full two years and there is some concern about the robustness of that marketing. However, there was a low level of employment as a result of the last commercial use of the property, in effect being a quarter of a full-time employee. I therefore consider on the circumstances of this particular case, that the loss of the employment use of the building would not result in unacceptable harm to employment land provision within the authority.

Other matters

55. The flats are currently being let at 'affordable rates'. The evidence provided is not disputed and shows that the rents are below the Local Housing Allowance for a 1 bed unit. However, there is no mechanism to secure this in the future and while noting this, it is not something that has been relied upon in assessing the scheme.
56. The appeal site has a PTAL rating of 2¹ which is considered to be poor. Policy 22 of the Hackney Core Strategy (adopted November 2010) (CS) states that where an area scores below level 5 development will only be permitted at

¹ Paragraph 7.22 Council proof.

higher densities where there are firm proposals to improve public transport in the locality. In areas with a high PTAL score or controlled parking zone car free residential development will be encouraged. Flats 11 to 25 are at a higher density and no proposals have been provided to improve public transport. The development is therefore contrary to this policy. However, there are local bus services and shops in close proximity to the site (about 250m to the north and 150m to the south). I also note that the site is within 700m of Stamford Hill where there are shops, facilities and more bus routes. Stamford Hill train station is a further 300m away. I therefore find that whilst the development is contrary to CS Policy 22 the occupiers are within a reasonable walking distance of shops and other modes of transport and the location and density is acceptable.

57. The appellant has provided an assessment of viability in relation to affordable housing provision. The Council accepted that the provision of affordable housing would be unviable in the context of this development. I see no reason to demur from this conclusion.

Conditions

58. The Council pursued conditions relating to provision for bicycle storage and refuse and recycling storage to serve the residential units. It was agreed at the Inquiry between the parties that the details set out on drawing no 289 PL(10) P00 revision 2 produced by the appellant showed adequate bicycle storage and bin storage to serve all 25 residential units. While this appeal (a) relates to only the first-floor units (15 in total), there is no alternative plan.
59. In my view, the provision of adequate bicycle storage and refuse and recycling storage is necessary and justified for the proper functioning of the residential units and their amenity. I will therefore impose a condition requiring provision of the agreed bicycle storage and refuse and recycling storage. That condition will ensure these details are implemented to make the development acceptable in planning terms. There is a strict timetable for compliance because permission is being granted retrospectively, and it is not possible to use a negatively worded condition to secure the implementation of these matters before the development takes place. The condition will ensure that the development can be enforced against if the requirements are not met.

Conclusions on ground (a)

60. For the reasons given above I conclude that the ground (a) appeal in relation to Flats 11 to 25 and the external works the subject of the Notice should be allowed.

Conclusion

61. For the reasons given above I conclude that the appeal on ground (c) succeeds in part only in relation to the ground floor residential use, Units 1 to 10. Accordingly, I will direct that the allegation be corrected to refer only to the first-floor residential use, Units 11 to 25, and the external works the subject of the Notice.
62. As to the appeal on ground (a) in relation to the first-floor residential use, Units 11 to 25, and the external works, for the reasons given above I conclude that the appeal should succeed, and planning permission will be granted. The

Notice, as corrected, will be quashed. The appeal on ground (g) does not therefore need to be considered.

Formal Decision

63. It is directed that the enforcement notice be corrected by:

- the insertion after the words ('The Property') "as shown outlined and hatched black on the plan attached to this decision"

And varied by:

- the deletion of the words "the change of use from warehouse to self-contained flats" and the substitution of the words "the material change of use of the first-floor warehouse to 15 self-contained flats (Nos 11 to 25)" in paragraph 3;
- The deletion of 'new windows, doors' and the insertion of 'new windows and doors at first floor level' in paragraph 3; and
- The deletion of the comma between the words 'doors' and 'facilities in the second bullet point of paragraph 5 and insertion of the words 'and internal' between 'doors' and 'facilities'

Subject to these corrections and variations the appeal is allowed, and the enforcement notice is quashed. Planning permission is granted on the application deemed to have been made under section 177(5) of the 1990 Act as amended, for the development already carried out, namely the use of the first floor warehouse for 15 self-contained flats (Nos 11 to 25) on the land shown edged and hatched black on the plan annexed to this decision, subject to the following conditions:

- 1) The use hereby permitted shall cease and all equipment and materials brought onto the land for the purposes of such use shall be removed within 3 months of the date of failure to meet any one of the requirements set out in i) below:
 - i) Within 3 months of the date of this decision the bicycle storage scheme and the refuse and recycling storage scheme set out on drawing no 289 PL(10) P00 revision 2 (the approved scheme) shall be carried out fully in accordance with the details and notes set out on the drawing.

Upon implementation of the approved scheme specified in this condition, that scheme shall thereafter be maintained.

In the event of a legal challenge to this decision, or to a decision made pursuant to the procedure set out in this condition, the operation of the time limits specified in this condition will be suspended until that legal challenge has been finally determined.

Hilda Higenbottam

Inspector

APPEARANCES

FOR THE APPELLANT:

Mr Lowe QC	Of Counsel instructed by Mr A Ground of Russell-Cook LLP
He called	
Mr Staff BA Tec	Director of Planning, Create Planning, on behalf of the appellant
Mr Moskovitz	Director of Triplerose Ltd, on behalf of the appellant
Mr Adler	Director of AAM Maintenance Ltd, on behalf of the appellant

FOR THE LOCAL PLANNING AUTHORITY:

Ms L Busch QC	Of Counsel instructed by Suzki Binjal, Director of Legal Services and Governance, London Borough of Hackney Council
She called	
Mr N Kirk BA	Planning Enforcement Officer, London Borough of Hackney Council

INTERESTED PERSONS:

Mr Hobbs	Interested third party
Mr P Manchester	Interested third party
Miss Isbas	Interested third party

DOCUMENTS SUBMITTED AT THE INQUIRY

- 1 Statement of Common Ground submitted by the appellant
- 2 Rebuttal Proof of Evidence submitted by the Council
- 3 Appendices contents sheet submitted by the appellant
- 4 List of appendices submitted for the London Borough of Hackney submitted by the appellant
- 5 Burroughs Day v Bristol City Council [1996] 1PLR judgement submitted by the appellant
- 6 Gravesham BC v SoS for the Environment (1984) 47 P. & C.R. 142 (1982) judgement submitted by the appellant
- 7 Development Plan document cover sheets and policies submitted by the Council
- 8 Opening statement submitted by the appellant
- 9 Copy of the Notice and plan submitted by the Council
- 10 Opening statement submitted by the Council
- 11 Correspondence relating to building control applications submitted by the appellant
- 12 Plan of Employment Clusters outside PEA's submitted by the appellant
- 13 Survey of external sound intrusion to a residential development at Unit 2 Ravendale Industrial Estate report reference 170817-R001

- and covering letter for submission of details submitted by the appellant.
- 14 Impey v SoS for the Environment (1984) 47 P. & C.R. 157 (1980) judgement submitted by the appellant.
 - 15 Statement by the Council in relation to applications 2017/4202 & 2017/4205 submitted by the Council
 - 16 Drwg nos 289 PL(10) rev 02; 289 A(20) rev A; 289 A(20) P00 with Flat numbers 1 to 10 added in red; and 289 A(20) P01 with Flat numbers 11 to 25 added in red. Revision numbers for last two plans not legible/poor photocopy of edge – submitted by the appellant.
 - 17 The Draft London Plan consolidated changes version – Clean July 2019 submitted by the Council
 - 18 Appendix U – accommodation schedule - replacement submitted by the appellant.
 - 19 Drawing no 289 PL(10) P00 revision 2 detailing bicycle storage and refuse and recycling storage submitted by the appellant.
 - 20 Revised list of conditions submitted by the Council.



Plan

This is the plan referred to in my decision dated: 26 May 2020

by Mrs H M Higenbottam BA (Hons) MRTPI

Land at: Unit 2 Ravensdale Industrial Estate, Timberwharf Road, London N16 6DB

Reference: APP/u5360/c/18/3208237

Scale: nts

