

Dated 21 March 2025

**UNILATERAL UNDERTAKING GIVEN BY DEED**

**BY**

**THE LONDON BOROUGH OF SUTTON (IN ITS CAPACITY  
AS LANDOWNER)**

**TO**

**THE LONDON BOROUGH OF SUTTON (IN ITS CAPACITY  
AS LOCAL PLANNING AUTHORITY)**

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**RELATING TO THE DEVELOPMENT OF LAND AT ELM  
GROVE ESTATE, 216-220 HIGH STREET, SUTTON SM1  
1NU**

**PLANNING APPLICATION NUMBER: DM2024/00392**

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**THIS UNILATERAL UNDERTAKING** is given on 21 March 2025

and is made

**BY:**

**THE LONDON BOROUGH OF SUTTON** of the Civic Offices, St Nicholas Way, Sutton SM1 1EA acting in its capacity as landowner ("the **Owner**");

**IN FAVOUR OF:**

**THE LONDON BOROUGH OF SUTTON** of the Civic Offices, St Nicholas Way, Sutton SM1 1EA acting in its capacity as Local Planning Authority (the "**Council**")

**BACKGROUND**

- (A) The Owner acting in its capacity as landowner has the freehold interest in the Site registered under Title Nos. SGL134899, SGL203678, SGL221610, ~~SGL313775~~, SGL431850, SGL540024, SGL639068 and SGL610160. PM LLP 21.03.25
- (B) The Council is the local planning authority for the area in which the Site is located.
- (C) The Owner is acquiring the CPO Interests such interests will be bound by the terms of this Deed or the Agreed Form S106 Agreement (as the case may be) to enable the delivery of the Development pursuant to the Planning Permission.
- (D) On 15 March 2024 the Owner in its capacity as landowner submitted the Planning Application to the Council for permission to develop the Site for the purposes and in the manner described in the Planning Application.
- (E) The Council resolved at its Planning Committee meeting on 4 September 2024 to grant the Planning Application subject to conditions, the completion of a Section 106 Agreement and a satisfactory Stage 2 referral to the Mayor of London.
- (F) The Owner recognises that as a matter of law, as both landowner and local planning authority, it is unable to secure the obligations set out in the Agreed Form S106 Agreement by way of bilateral agreement concluded with itself. To overcome this obstacle, the Owner unilaterally undertakes herein pursuant to section 111 of the Local Government Act 1972 and section 106 of the 1990 Act to abide by the terms of and perform the Owner's obligations set out in the Agreed Form S106 Agreement.
- (G) To the extent that obligations incorporated into this Deed fall within the scope of section 106(1) of the 1990 Act the Owner intends that they create planning obligations for the purposes of section 106 of the 1990 Act binding itself and its interests in the Undertaking Land and the Owner intends that they will be enforceable against any successors in title to the Owner's interests in the Undertaking Land or any part of it under section 106(3) of the 1990 Act in accordance with the provisions of this Deed.
- (H) The Owner recognises that the Council as local planning authority cannot enforce the obligations secured by this Deed against itself as landowner. However, once any of the Owners' interests within the Site or any part thereof are Disposed of to a third party then:
  - i) clause 5.1.4 of this Deed requires that the Donee be obliged to enter into the Agreed Form S106 Agreement or (where an Agreed Form S106 Agreement has already been completed) an Agreed Form Confirmatory Agreement in respect of the Disposed Land; and
  - ii) until such time as the Donee has entered into the Agreed Form S106 Agreement or (where an Agreed Form S106 Agreement has already been completed) an Agreed Form Confirmatory Agreement in respect of the Disposed Land, the obligations contained in this Deed will be capable of being enforced by the Council as local planning authority against such Donee and the Owner intends that the obligations in this Deed will following such Disposal automatically crystallise in respect of the Disposed Land as planning obligations under Section 106 of the 1990 Act and will



be enforceable in accordance with the terms of this Deed until such time as the Donee has entered into the Agreed Form S106 Agreement or (where an Agreed Form 106 Agreement has already been completed) an Agreed Form Confirmatory Agreement.

## **THIS DEED WITNESSES AS FOLLOWS:**

### **1 DEFINITIONS AND INTERPRETATION**

- 1.1 For the purposes of the recitals and this Deed, the following expressions shall have the following meaning:

**"1990 Act"** means the Town and Country Planning Act 1990;

**"Additional Legal Interest"** means an interest in the Site in addition to the Undertaking Land that is capable of registration at the Land Registry which shall include the CPO Interests

**"Agreed Form Confirmatory Agreement"** means the draft confirmatory deed pursuant to Section 106 of the 1990 Act securing planning obligations in the form at Appendix Five

**"Agreed Form Confirmatory Undertaking"** means the draft unilateral undertaking pursuant to Section 106 of the 1990 Act in the form at Appendix Six

**"Agreed Form S106 Agreement"** means the draft deed pursuant to Section 106 of the 1990 Act securing planning obligations in the form at Appendix Two

**"Commencement" and "Commence"** has the same meaning as defined in the Agreed Form S106 Agreement

**"CPO Interests"** means those interests acquired by the Council under the London Borough of Sutton (Elm Grove Estate) Compulsory Purchase Order 2024 attached at Appendix Four to this Deed

**"Development"** means the development authorised by the Planning Permission;

**"Disposed Land"** means any part of the Site which is the subject of a Disposal

**"Donee"** means in relation to the Site (or any part thereof):

- (a) a person or body being the successor in title to the Owner as freeholder or leaseholder; or
- (b) a person or body deriving title under the Owner

in either case following a Disposal thereof

**"Disposal"** means:

- (a) a sale by way of the transfer of the freehold or assignment of the leasehold;
- (b) the grant of a leasehold interest that is capable of registration at the Land Registry; or
- (c) the grant of a leasehold interest that is not capable of registration at the Land Registry but pursuant to which the lessee is permitted to carry out the Development (or part thereof)

**in either case in respect of the whole or a part of the Site and "Dispose" and "Disposes" and "Disposed" shall be construed accordingly**

**"Head of Planning"** means the Council's Head of Planning or such person as the Council designates as undertaking this role;



**"Occupation"** means occupation of the Site for the purposes permitted by the Planning Permission and "Occupy" and "Occupied" shall be construed accordingly;

**"Plan"** means the plan attached to this Deed as Appendix Three;

**"Planning Application"** means the outline planning application (DM2024/00392) (with all matters reserved) for development including demolition of existing buildings and structures within Elm Grove Estate and erection of new buildings to provide residential floorspace (Class C3); retention, refurbishment and rear extension of 216-220 High Street to provide town centre (Class E), community (Class F2), sui generis and residential floorspace (Class C3); new pedestrian and vehicular access; associated amenity space, open space, public realm and landscaping; car and cycle parking spaces; plant; refuse storage; servicing; other works incidental to the proposed (phased) development; and Phase 0 enabling preliminary works in the form of demolition of two existing bungalows on-site;

**"Planning Obligations Team"** means the Council's Planning Obligations Team or such person as the Council designates as undertaking this role;

**"Planning Permission"** means the planning permission to be granted pursuant to the Planning Application in the substantial form set out in Appendix One;

**"S111 Agreement"** means the agreement of ~~even date hereto~~ <sup>dated 20 March 2025</sup> made pursuant to section 111 of the Local Government Act 1972 between the London Borough of Sutton and Lovell Partnerships LLP PM LLP  
21.03.25

**"Site"** means the property known as Elm Grove Estate, 216-220 High Street, Sutton SM1 1NU and shown for identification purposes only edged red on the Plan;

**"Statement Reference"** means the planning application reference number DM2024/00392;

**"Undertaking Land"** means the land owned by the Owner as set out at Recital A of this Deed and shown edged red on Undertaking Plan

**"Undertaking Plan"** means the plan attached to this Deed as Appendix Seven

**"VAT"** means Value Added Tax

- 1.2 Any covenant by the Owner not to do any act or thing shall be deemed to include an obligation not to permit or suffer such act or thing to be done by another person where knowledge of the actions of the other person is reasonably to be inferred.
- 1.3 Unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships.
- 1.4 References in this Deed to any statute or statutory provision shall be construed as a reference to the same as it may from time to time be amended, extended, modified, consolidated or re-enacted whether before or at the date of this Deed.
- 1.5 Unless the context otherwise requires, reference to any clause, paragraph, sub-clause or schedule or appendix is a reference to a clause, paragraph, sub-clause, schedule or appendix of or to this Deed.
- 1.6 The headings in this document are inserted for convenience only and shall not affect the construction or interpretation of this Deed.
- 1.7 Where reference is made to a Clause, Part, Plan, Paragraph, Recital or Schedule such reference (unless the context requires otherwise) is a reference to a clause, part, paragraph, recital or schedule of (or in the case of plan attached to) this Deed.



- 1.8 References to the Owner shall include the successors in title to that party and to any party deriving title through or under that party and in the case of the Council the successors to the Council's respective functions.
- 1.9 Where under this Deed any notice, approval, consent, certificate, direction, authority, agreement, action, expression of satisfaction is required to be given or reached or taken by any party or any response is requested any such notice, approval, consent, certificate, direction, authority, agreement, action, expression of satisfaction or response shall not be unreasonable or unreasonably withheld or delayed (save where the contrary intention is indicated).
- 1.10 Without prejudice to the terms of any other provision contained in this Deed the Owner shall pay all costs charges and expenses (including without prejudice to legal costs and Surveyor's fees) reasonably incurred by the Council acting as local planning authority for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Owner arising under this Deed.

## **2 STATUTORY PROVISIONS**

- 2.1 This unilateral undertaking is given by Deed entered into pursuant to Section 111 of the Local Government Act 1972, Section 106 of the 1990 Act, Section 16 of the Greater London Council (General Powers) Act 1974 and section 1 of the Localism Act 2011.
- 2.2 To the extent that the obligations, covenants, undertakings, restrictions and agreements undertaken by the Owner pursuant to clause 5 of this Deed constitute planning obligations for the purposes of section 106 of the 1990 Act, the Owner undertakes that they shall bind the Owner's freehold and leasehold interests in the Undertaking Land and shall be enforceable by the Council as local planning authority under Section 106(3) of the 1990 Act against any freehold or leasehold successors in title to or assigns of the Owner and/or any person claiming a freehold or leasehold interest through or under the Owner.

## **3 CONDITIONALITY AND TERMINATION**

- 3.1 This Deed shall have immediate force and effect on its completion.
- 3.2 This Deed shall forthwith determine and cease to have any further effect if the Council decides not to grant Planning Permission or if the Planning Permission shall expire before Commencement OR is quashed OR is revoked in its entirety.

## **4 MISCELLANEOUS**

- 4.1 Nothing contained or implied in this Deed shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of their functions as local planning authority and their rights, powers, duties and obligations under all public and private statutes, bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Deed.
- 4.2 If any provision in this Deed shall be held to be invalid, illegal or unenforceable then the validity, legality and enforceability shall not affect the validity or enforceability of the remaining provisions of this Deed.
- 4.3 No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the covenants undertakings obligations or restrictions contained in this Deed shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertaking or obligation from acting upon any subsequent breach or default in respect thereof by the Owner.
- 4.4 Nothing in this Deed shall be construed as a grant of planning permission.
- 4.5 Unless expressly agreed otherwise in this Deed, the covenants in this Deed shall be enforceable without any limit of time against the Owner and the Owner shall not be released from its obligations unless and until it disposes of its interest in the Site.



- 4.6 No party to this Deed nor any of its successors in title nor any person deriving title from or under them shall be liable for any breach of any of the planning obligations or other obligations contained in this Deed after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.
- 4.7 This Deed shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed or revoked or otherwise withdrawn or (without the consent of the Owner or their successors in title) is modified by any statutory procedure or expires prior to Commencement of Development.
- 4.8 Nothing in this Deed shall prohibit or limit the right to develop any part of the Site in accordance with a planning permission (other than the Planning Permission) granted (whether or not on appeal) after the date of this Deed.
- 4.9 The obligations within this Deed shall not be binding upon or enforceable against an individual owner occupier of the Development within the Undertaking Land or their mortgagee or chargee save for the obligation to observe and perform the terms, obligations, covenants, undertakings, restrictions and agreements on the part of the Owner contained in:-
- 4.9.1 paragraph 2.3.3 of Schedule 2 of the Agreed Form S106 Agreement which shall be enforceable against an individual owner occupier of an Affordable Housing Unit(s) or their mortgagee or charge subject to paragraphs 2.7 and 3 of Schedule 2 of the Agreed Form S106 Agreement; and
- 4.9.2 paragraph 1.1 of Schedule 5 of the Agreed Form S106 Agreement which shall be enforceable against an individual owner occupier of a Dwelling or their mortgagee or chargee.

## **5 THE OWNER'S PLANNING OBLIGATIONS**

- 5.1 The Owner undertakes in favour of the Council so as to bind its interest in the Undertaking Land as follows:
- 5.1.1 to observe and perform the terms, obligations, covenants, undertakings, restrictions and agreements on the part of the Owner contained in the Agreed Form S106 Agreement with the intention of binding its freehold and leasehold interests in the Bound Undertaking Land with those terms, obligations, covenants, undertakings, restrictions and agreements (save to the extent such terms, obligations, covenants, undertakings, restrictions and agreements have already been complied with by the Developer pursuant to the S111 Agreement) and PROVIDED THAT where the Owner has complied with clause 5.1.2 the Owner shall not be responsible for any breaches of the terms of the Agreed Form S106 Agreement after the date on which it Disposes of its interest in the Site or the part of the Site in respect of which such breach occurs;
- 5.1.2 not to obstruct or prevent its successors in title to the Bound Undertaking Land (including persons deriving title under it) from complying with the terms, obligations, covenants, undertakings, restrictions and agreements on the part of the Owner contained in the Agreed Form S106 Agreement;
- 5.1.3 not to Dispose of any interest in the Undertaking Land (subject to Clause 5.2) without first imposing a legally enforceable obligation on the Donee to enter into the Agreed Form S106 Agreement or (where an Agreed Form S106 Agreement has already been completed) an Agreed Form Confirmatory Agreement with the Council within 30 (thirty) Working Days of the completion of the Disposal so as to render the interest Disposed of subject to the terms set out in the Agreed Form S106 Agreement or Agreed Form Confirmatory Agreement (as applicable);
- 5.1.4 on completion of this Deed to register a restriction against the Owner's registered title in the Undertaking Land preventing any future disposal by the Owner as landowner until the requirements of clause 5.1.3 have been complied with;



- 5.1.5 not to Commence Development until the registration requirements as set out at clause 5.1.4 have been complied in full; and
- 5.1.6 to deliver a duly executed and irrevocably released engrossment of the Agreed Form Confirmatory Undertaking to the Council's solicitor quoting planning application reference number DM2024/00392 on each occasion it acquires an Additional Legal Interest within 20 (twenty) Working Days thereof so as to render the interest acquired by the Owner subject to the terms set out in the Agreed Form Confirmatory Undertaking.
- 5.2 The obligation in Clause 5.1.3 above shall not apply if:
- 5.2.1 the interest in the Site which is being Disposed of has already been bound by the obligations in the Agreed Form S106 Agreement; or
- 5.2.2 the interest in the Site which is being Disposed of is to an individual owner-occupier(s) or individual tenant(s) of dwellings constructed pursuant to the Planning Permission or mortgagees chargees licensees or leaseholders (other than persons with a long leasehold interest); or
- 5.2.3 the obligations contained in the Agreed Form S106 Agreement have been performed and/or satisfied in full.

## **6 COSTS**

- 6.1 The Owner hereby covenants with the Council that on execution of this Deed it will pay the local planning authority's reasonable costs incurred in the negotiation, preparation and execution of this Deed.

## **7 REGISTRATION OF AGREEMENT**

- 7.1 Immediately after the execution of this Deed the Owner will use reasonable endeavours to make an application to the Land Registry for entries relating to this Deed to be made in the charges register of title number(s) SGL134899, SGL203678, SGL221610, ~~SGL313775~~, SGL431850, SGL477678, SGL540024, SGL639068 and SGL610160 and SGL309463. PM LLP 21.03.25
- 7.2 The covenants on behalf of the parties in this Deed to be observed and performed under this Deed shall be treated as a Local Land Charge and registered in the Register of Local Land Charges for the purposes of the Local Land Charges Act 1975.

## **8 RIGHT OF ACCESS**

- 8.1 Without prejudice to the Council's statutory rights of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising under this Deed has been performed or observed.

## **9 DISPUTES**

- 9.1 In the event that there shall be any dispute between the parties to this Deed in respect of any matter arising under the terms of this Deed and which dispute the parties are unable to resolve any of the parties may refer the matter to an expert (being a person as described below) for determination.
- 9.2 The expert shall be a person with knowledge and expertise in the subject matter of the dispute and in the event that the parties cannot agree the identity of the person to be appointed as expert pursuant to this clause 9 within fifteen (15) Working Days of one party's notification to the other party of that party's decision to refer the matter to an expert, either party may seek nomination of an expert by the president for the time being of the appropriate professional body (whose nomination shall be binding on the parties).



- 9.3 The costs of the expert shall be in the award of the expert and if not provided for by the expert shall be split equally between the parties to the dispute.
- 9.4 The expert shall (save with the written agreement of both parties) be restricted to settling disputes.
- 9.5 The expert shall act as an expert and not as an arbitrator.
- 9.6 The decision of the expert (other than in the case of manifest, material error or fraud) shall be binding on the parties.
- 9.7 The procedure for a reference to the expert shall be determined by the expert, but in any event it shall allow for the parties to make written representations to the expert, and for the parties to be able to comment on each other's representations.
- 9.8 The expert is to use all reasonable endeavours to publish his decision within 30 Working Days of his appointment.
- 9.9 The provisions of this clause 9 do not apply in the case of any dispute or difference arising in connection with any matter covered by this Deed to the extent that the same is a dispute or difference as to a matter of law or concerning the interpretation of this Deed.
- 9.10 Nothing in this clause 9 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Deed.

## **10 THIRD PARTIES**

- 10.1 A person who is not named in this Deed does not have any right to enforce any term of this Deed under the Contracts (Rights of Third Parties) Act 1999.

## **11 NOTICES**

- 11.1 All notices served under or in connection with this Deed shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party;
- 11.2 Any notice to be served under or in connection with this Deed shall be sent to the Head of Planning, London Borough of Sutton, Civic Offices St. Nicholas Way, Sutton SM1 1EA and shall cite the Statement Reference.

## **12 COMMENCEMENT OF THE DEVELOPMENT**

- 12.1 Prior to Commencement of the Development the Owner shall give notice to the Council's Planning Obligations Team that they intend to Commence the Development and shall cite the Statement Reference.

## **13 CHANGE IN OWNERSHIP**

- 13.1 The Owner shall provide the Council with at least 1 months' written notification of any intended or proposed change in ownership of any of its interest in the Site (such notice to give details of the intended transferee's full name and registered office) together with the area of the Site or unit of occupation purchased or demised by reference to a plan and the Statement Reference.
- 13.2 The Owner shall ensure the requirements of Clause 5 of this Deed have been complied with before or contemporaneously with any change in the legal interests affecting the Site.

## **14 VAT**

- 14.1 All consideration given in accordance with the terms of this Deed shall be exclusive of any VAT properly payable.

**15 JURISDICTION**

15.1 This Deed is governed by and interpreted in accordance with the law of England.



**APPENDIX 1 - DRAFT PLANNING PERMISSION**

**NOTE: Appendix 1 to the Planning Permission (the Agreed Form S106) has been omitted.**





# G

Application no: DM2024/00392

## PLANNING PERMISSION GRANTED

Town and Country Planning Act 1990

To: Enya Macliam Roberts  
Savills  
33 Margaret Street  
London  
W1G 0JD

Applicant: London Borough of Sutton  
Civic Offices, St Nicholas Way  
Sutton  
SM1 1EA

The Council of the London Borough of Sutton as Local Planning Authority under their powers provided by the above legislation, **DO HEREBY GRANT** permission for the development specified in the First Schedule hereto, subject to the conditions (if any) specified in the Second Schedule.

### FIRST SCHEDULE

In accordance with your application, valid on 15th March 2024.

**Elm Grove Estate 216 - 220 High Street Sutton SM1 1NU**

**Outline planning application (with all matters reserved) for development including demolition of existing buildings and structures within Elm Grove Estate and erection of new buildings to provide residential floorspace (Class C3); retention, refurbishment and rear extension of 216-220 High Street to provide town centre (Class E), community (Class F2), sui generis and residential floorspace (Class C3); new pedestrian and vehicular access; associated amenity space, open space, public realm and landscaping; car and cycle parking spaces; plant; refuse storage; servicing; other works incidental to the proposed (phased) development; and Phase 0 enabling preliminary works in the form of demolition of two existing bungalows on-site.**

### SECOND SCHEDULE

#### Condition(s):

(1) The approved Development shall be carried out in accordance with the following drawings/details:

3465B-LB-XX-ZZ-D-A-106000 (Rev: P04)  
3465B-LB-XX-ZZ-D-A-106100 (Rev: P06)  
3465B-LB-XX-00-D-A-106200 (Rev: P05)  
3465B-LB-ZZ-ZZ-D-A-101000  
3465B-LB-XX-00-D-A-106300 (Rev: P04)  
3465B-LB-XX-ZZ-D-A-106400 (Rev: P04)  
3465B-LB-XX-ZZ-D-A-106401 (Rev: P05)  
3465B-LB-BA-ZZ-D-A-110021 (Rev: P01)  
3465B-LB-BA-ZZ-D-A-110020 (Rev: P02)  
Design Code by Levitt Bernstein dated March 2024



The following drawings were submitted with the outline planning application for information purposes only and not for formal approval:

<b>Document Title</b>	<b>Author</b>	<b>Date</b>
Development Specification Statement	Savills	March 2024
Planning Statement (incl. Affordable Housing Statement and Skills & Employment Strategy)	Savills	March 2024
Economic Benefits and Social Value Summary (appended to the Planning Statement)	Savills Economics	March 2024
Topographical Survey	Plowman Craven	March 2024
Phase 1 Geoenvironmental and Geotechnical Desk Study	AECOM	March 2024
Daylight, Sunlight and Overshadowing Assessment	eb7	March 2024
Heritage and Townscape Visual Impact Assessment (HTVIA)	Savills Heritage and Townscape	June 2024
Transport Assessment (including Parking Plans)	Markides	March 2024
Outline Delivery and Servicing Plan	Markides	March 2024
Financial Viability Assessment	Savills Viability	August 2024
Preliminary Ecological Appraisal	PJC	March 2024
Biodiversity Net Gain Assessment	PJC	June 2024
Urban Greening Factor Assessment	PJC	June 2024
Green Space Factor Assessment	PJC	June 2024
Bat Survey Report	Middlemarch	July 2024
Tree Survey and Arboricultural Impact Assessment	PJC	March 2024
Outline Energy Statement	AECOM	March 2024
Outline Overheating Report	AECOM	March 2024
Outline Overheating Report Addendum	AECOM	May 2024
Outline Sustainability Statement	Levitt Bernstein	March 2024
Outline Fire Safety Strategy	Toga Fire	March 2024
Design and Access Statement	Levitt Bernstein	March 2024
Design and Access Statement Addendum	Levitt Bernstein	June 2024
Illustrative Summary Accommodation & Area Schedule	Levitt Bernstein	March 2024
Air Quality Assessment (including Air Quality Neutral Assessment and Air Quality Positive Assessment )	AECOM	March 2024
Archaeological Desk Based Assessment	Savills Heritage and Townscape	March 2024
Indicative Demolition and Construction Method Statement	AECOM	March 2024
Illustrative Demolition Plan (ref: 3465B-LB-ZZ-ZZ-D-A-110002 rev P03)	LBA	March 2024
Outline Construction Logistics Plan	Markides	May 2024
Illustrative Refuse Management & Servicing Plan	Markides	March 2024
Flood Risk Assessment & Drainage Strategy (including LBS SUDs Proforma)	AECOM	March 2024
External Lighting Assessment	AECOM	March 2024
Microclimate and Wind Assessment	RWDI	March 2024
Noise Survey and Preliminary Acoustic Assessment	AECOM	March 2024
Statement of Community Involvement	Levitt Bernstein	March 2024
Framework Travel Plan	Markides	March 2024
Foul Sewage and Utilities Statement	AECOM	March 2024
Circular Economy Statement	AECOM	March 2024
Whole Life Cycle Carbon Assessment	AECOM	June 2024

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

- (2) For the purpose of interpreting the planning conditions attached to this decision notice, the following definitions apply unless expressly stated otherwise within the relevant condition(s):



"Agreed Form S106" means the agreed form of s106 agreement contained at Appendix 1

"Commencement" – means commencing or carrying out on Site of a material operation as defined in Section 56 (4) of the Town and Country Planning Act 1990 and "Commence" shall be construed accordingly

"Confirmatory Deed" – means the agreed form confirmatory deed annexed at Appendix 5 of the Unilateral Undertaking

"Confirmatory Unilateral Undertaking" means the agreed form confirmatory unilateral undertaking annexed at Appendix 6 of the Unilateral Undertaking

"Development" means as set out in the First Schedule to this Planning Permission

"Enabling Works" – means initial enabling works and Site set-up works required for the Development which may include:

- Site clearance and preparation;
- demolition (provided always that such works do not relate to any listed building within the Site);
- archaeological investigations and works;
- ground investigations;
- Site survey works;
- tree protection works;
- temporary access construction works;
- preparatory or remediation works;
- works for the laying termination or diversion of services;
- the erection of any temporary means of enclosure or Site notices;
- decontamination works;
- erection of any fences and hoardings around the Site;
- provision of temporary accommodation reasonably required for construction purposes only; and
- environmental Site investigations,

"Excluded Party means

- (i) an individual owner occupier of the Development or their mortgagee or chargee;
- (ii) any statutory undertaker who acquires any part of the Site or an interest therein solely for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services or other utility services within or from the Site and for no other purpose; or
- (iii) any mortgagee or chargee or receiver with an interest in the Site unless and until it becomes a mortgagee or chargee in possession of any part of the Site in which case it will be bound by the obligation and undertaking in Condition 3 paragraphs (d) (a) and (d)(a)(ii)

"Legal Interest" means a legal interest in land that is capable of registration at HM Land Registry

"Phase" means a phase as indicated within the approved Site Wide Phasing Strategy.

"Phase 0 Works" means preliminary enabling works comprising:

- Asbestos survey
- Erection of hoarding
- Installation of noise/dust monitors
- Disconnection of mains services to properties concerned and meters removed.
- Demolition of existing bungalow structures to grade level.
- Removal of strip foundations
- Removal of all spoil and debris from Site.

"Site" means the land shown edged red on site location plan (3465B-LB-ZZ-ZZ-D-A-101000 P04)



"Site Wide Phasing Strategy" means a strategy comprising:

- i. A plan indicating the proposed Phases of the Development across the Site, including confirmation of the Plots to be delivered in each Phase;
- ii. A programme for the sequencing and an indication of the anticipated timing of works to be undertaken across the different Phases of the Development; and
- iii. Details of the proposed phasing of the Development for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended).

"Unilateral Undertaking" means the unilateral undertaking given by the Council (as landowner) to the Council (as local planning authority) on the date hereof

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

- (3) No Development shall Commence other than the Phase 0 Works and the Enabling Works within the Site unless and until:
- a) title to the Site has been deduced to the satisfaction of the local planning authority;
  - b) one or more third parties (other than the Council as landowner) owns a Legal Interest in the Site;
  - c) all third parties who have a Legal Interest in the Site existing at the point of Commencement of the Development have entered into the Agreed Form S106 (or Confirmatory Deed as applicable); and
  - d) In the event that the Council as landowner owns a Legal Interest in the Site at the point of Commencement of Development:
    - a. a restriction has been registered against the Council's registered title in the Site preventing any future disposal by the Council as landowner (SAVE FOR any disposal to an Excluded Party) until the donee has entered into the Confirmatory Deed with the local planning authority to bind the relevant land with the obligations set out in the Agreed Form S106; and the Council as landowner has undertaken to the local planning authority as follows (either by way of the Unilateral Undertaking and/or one or more Confirmatory Unilateral Undertakings):
      - i. to abide by the terms of the Agreed Form S106 with the intention that the planning obligations contained therein bind all of its interest in the Site and will become enforceable against successors in title and persons deriving title under them;
      - ii. not to dispose of its interest in the Site without first imposing a legally enforceable obligation on the donee to enter into the Agreed Form S106 (or Confirmatory Deed as applicable) SAVE THAT this obligation and undertaking shall not apply in respect of any disposal to an Excluded Party

Reason: The London Borough of Sutton is both the applicant and the local planning authority, and there are currently no third party freehold or leasehold owners with sufficient locus to implement the approved Development. It is therefore considered that exceptional circumstances exist to justify the use of a negatively worded condition to secure the necessary planning obligations via a legal agreement. This is in accordance with National Planning Policy Guidance on the Use of Planning Conditions (Paragraph: 010 Reference ID: 21a-010-20190723).

- (4) Reserved matters applications must be submitted in accordance with the Site Wide Phasing Strategy. Approval of the details of the access, appearance, landscaping, layout and scale of the proposed Development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any Development other than the Phase 0 Works and Enabling Works begins on each Phase and the Development shall not be carried out except in accordance with the details so approved.

Reason: The application is in outline only and these details remain to be submitted and approved.

- (5) The first reserved matters application must be submitted to the Local Planning Authority no later than the expiry of THREE YEARS from the date of this permission. Applications for approval of the



Reserved Matters for all other reserved matters of the Development shall be submitted to the Local Planning Authority before the expiration of 15 YEARS from the date of this Decision Notice.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- (6) The Commencement of Development must be begun not later than the expiration of TWO years from the final approval of the last reserved matters.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- (7) A) No Development shall Commence on any part of the Site, other than Phase 0 Works and Enabling Works, until a Site Wide Phasing Strategy has been submitted to and approved in writing by the Local Planning Authority. Any updates to the Site Wide Phasing Strategy shall be submitted to and approved by the Local Planning Authority. The submission of reserved matters applications and the phasing of the Development shall be carried out in accordance with the approved Site Wide Phasing Strategy, or such updated Site Wide Phasing Strategy as approved by the Local Planning Authority.

B) Prior to Commencement of each Phase (other than Phase 0 Works and Enabling Works), a Delivery Plan for the Phase shall be submitted to and approved in writing by the LPA. The Delivery Plan shall include a layout plan outlining the public realm and open space to be delivered with each Plot and the sequencing of works to be undertaken within that Phase.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure a coordinated approach to the delivery of the Development.

- (8) The Development hereby approved shall comprise no more than 282 residential units.

Applications for the approval of reserved matters submitted pursuant to this permission relating to layout and scale of a Phase which includes residential uses, shall be accompanied by a Housing Accommodation Schedule. This document shall explain and include:

a) The mix (size by bedroom, and tenure) of residential units within that Phase; and

b) A cumulative position statement on the provision of housing, having regard to any residential development approved in previous reserved matters and the indicative housing proposals for the remaining parts of the development. The Housing Accommodation Schedule shall demonstrate how the proposed Development as a whole accords with the indicative housing mix ranges or as otherwise agreed with the Local Planning Authority through evidence.

**Indicative Unit Range:**

1 bed: 23% to 43%

2 bed: 29% to 49%

3 bed: 5% to 8%

Reason: To ensure that the Development is undertaken in accordance with the approved drawing(s) and document(s), and that it delivers a range of unit sizes in accordance with Policy 9 of the Sutton Local Plan 2018.

- (9) The Development hereby approved shall comprise no more than 580 sqm (GIA) of non-residential uses, consisting of Flexible Use Class E floorspace and / or Use Class F2(b) and/or Sui Generis floorspace (drinking establishment with or without expanded food provision and/or venue for live music performances).

Reason: To protect the amenity of residents and promote local services, amenities and community uses where appropriate, in accordance with Policies 1 and 3 of the Sutton Local Plan 2018.



- (10) Car parking provision across the Site must not exceed 16 car parking spaces (to include disabled parking provision) for residential use.

Reason: In the interest of promoting a modal shift to sustainable modes of transport in accordance with Policy 37 of the Sutton Local Plan 2018.

- (11) The maximum height of development above existing AOD shall not exceed the parameters set out within the approved plan 'Building Heights Parameter Plan 3465B - LB - XX - ZZ - D - A - 106100 rev P06'.

Reason: To ensure that the scheme implemented is in accordance with the principles established within this permission.

- (12) The delivery of the enhanced existing public realm spaces and the proposed new public realm spaces shall accord with the parameters set out within the approved plan 3465B - LB - XX - 00 - D - A - 106300 rev P04.

Reason: To ensure that the scheme implemented is in accordance with the principles established within this permission.

- (13) a) The Development Plots hereby permitted and identified on the approved 'Parameter Plan 1\_Development Plots 3465B - LB - XX - ZZ - D - A - 106000 rev P04' are: A, B, C.

b) Reserved Matters applications shall be presented by Plot or Plots and shall be in accordance with all plot-related parameters and principles hereby approved, including those set out in the Parameter Plans, Design Code and such further relevant plot specific parameters and principles as are referred to elsewhere in these conditions.

Reason: For the avoidance of doubt and to identify the Development Plots to which Reserved Matters applications will need to be submitted and approved and to ensure the reserved matters are in accordance with relevant approved parameters and principles.

- (14) All Development shall accord with the principles contained within the approved Design Code ref 3465B March 2024 by Levitt Bernstein and conformity to this shall be detailed within each reserved matters submission.

Reason: To ensure that the scheme implemented is in accordance with the principles established within this permission.

- (15) A minimum of ten percent of all new-build dwellings shall be constructed to, or be capable of easy adaptation to, Building Regulations Optional Requirement Approved Document M4(3) Category 3: Wheelchair user dwellings (2015 edition).

All remaining new build-dwellings shall be constructed to comply with Building Regulations Optional Requirement Approved Document M4(2) Category 2: Accessible and adaptable dwellings (2015 edition), unless otherwise agreed in writing through the reserved matters applications.

Reason: To ensure that sufficient accessible housing is provided, in accordance with Policy 9 of the Sutton Local Plan 2018.

- (16) The following documents shall be submitted as part of each Reserved Matters Application, unless otherwise agreed in writing with the Local Planning Authority:

- a) Statement of Conformity to the Site Wide Phasing Strategy
- b) Design and Access Statement (to include details on sustainable design and construction, security and inclusive design)
- c) Landscaping and Public Realm Strategy - This strategy must clearly denote the areas of public realm which will be subject to 24 hours a day, 7 days a week, 365 days public access
- d) Town Planning Statement



e) Transport Statement

In respect of reserved matters applications for residential development, the following documents should be submitted in addition:

f) Daylight, Sunlight Assessment (Within the Development)

g) Housing Accommodation Schedule in accordance with Condition [6] and Tenure Plan

h) Play Strategy

i) In relation to the matter of scale a reserved matters application shall include:

- a statement (including accompanying design material, townscape views and detailed plans at an appropriate scale) to demonstrate that the scale of the Development accords with the relevant design code principles and parameters

j) In relation to the matter of appearance a reserved matters application shall include:

- a statement together with detailed plans, drawings, sections and elevations to explain the proposed detailed design and materials to be used on all external elevations of the building(s) and how the appearance of the Development accords with the relevant design code principles and parameters.

k) In relation to the matter of landscaping a reserved matters application shall include:

- plans, drawings and sections to explain details of the hard and soft landscaping, including Site levels, finished floor levels, proposed drainage arrangements, children's playspace, private and communal amenity areas, and planting (including trees, brown/green roofs, planters)
- a statement (including accompanying design material) to demonstrate that the landscaping proposals accord with the design code principles.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed against the approved Parameter Plans and Design Code and in the interests of proper planning.

- (17) Prior to the Commencement of Development of each Phase, excluding Phase 0 Works and Enabling Works, a full and detailed Fire Statement (in the form of an independent fire strategy produced by a third party suitably qualified assessor) must be submitted to be approved by the Local Planning Authority. The statement should detail how the Development proposal will function in terms of:

- each building's construction: methods, products and materials used;
- means of escape for all building users: stair cores, escape for building users who are disabled or require level access, and the associated evacuation strategy approach;
- demonstrating how each building has a minimum of at least one lift per core (or more subject to capacity assessments), and has a suitably sized fire evacuation lift suitable to be used to evacuate people who require level access from the building
- features which reduce the risk to life: fire alarm systems, passive and active fire safety measures and associated management and maintenance plans;
- access for fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of equipment, firefighting lifts, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these;
- how provision will be made to enable fire appliances to gain access to buildings; and
- ensuring that any potential future modifications to the buildings will take into account and not compromise the base build fire safety/protection measures.

Reason - In the interests of fire safety, in accordance with Policy D12 of the London Plan 2021.

- (18) a) Prior to Commencement of Development of each Phase (excluding Phase 0 Works and Enabling Works) a stage 1 written scheme of investigation (WSI) must be submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no Development shall take place other than in accordance with the agreed WSI, and the programme and methodology of



Site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

b) If heritage assets of archaeological interest are identified by the stage 1 WSI then for those parts of the Site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the Local Planning Authority in writing.

For land that is included within the stage 2 WSI, no below ground works shall take place other than in accordance with the agreed stage 2 WSI which shall include:

A. The statement of significance and research objectives, the programme and methodology of Site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. Where appropriate, details of a programme for delivering related positive public benefits.

C. The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: To ensure that there is an opportunity to properly investigate and record information on this Site, which is considered to be of high archaeological interest and safeguard the archaeological heritage of the Borough, in accordance with Policy 30 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (19) Prior to the Commencement of Development of each Phase of the Development, excluding Phase 0 Works but including Site-wide demolition and Site clearance works (Enabling Works), a Construction Logistics Plan (CLP) for the relevant phase must be submitted to and approved by the Local Planning Authority in writing. The CLP must include details of:

- (a) loading and unloading of plant and materials;
- (b) storage of plant and materials;
- (c) programme of works (including measures for traffic management);
- (d) provision of boundary hoarding;
- (e) hours of operation;
- (f) and means to prevent deposition of mud on the highway
- (g) delivery times (particularly abnormal loads),
- (h) details of holding areas and
- (i) contractors parking have been submitted, to and approved in writing by, the Local Planning Authority.

The Development shall be constructed in accordance with the approved statement.

Reason: To ensure that the proposed Development does not interfere with the free flow of traffic and conditions of safety on the public highway, and to ensure the Development process does not have a significant adverse impact on the amenities of nearby residential properties in accordance with Policies 29 and 36 of the Sutton Local Plan 2018 and Policy T7 of the London Plan 2021. This is required to be pre-Commencement to mitigate against the impacts of the demolition and construction processes.

- (20) Prior to the Commencement of Development of each Phase (excluding Phase 0 Works but including the Enabling Works) a Construction Management Plan (CMP) excluding Phase 0 Works, for the relevant phase must be submitted to and approved by the Local Planning Authority in writing. The CEMP must include details of:

- (a) provision of boundary hoarding;
- (b) hours of operation;
- (c) means to control dust and emissions to air;
- (d) means to control noise and vibration
- (e) measures to prevent entrapment of mammals; has been submitted to, and approved in writing by, the Local Planning Authority.



The CMP should be in accordance with the GLA's Supplementary Planning Guidance 'Control of Dust and Emissions during Demolition and Construction'. The Development shall be constructed in accordance with the approved plan.

Reason: To ensure that the proposed Development does not have a significant adverse impact on the amenities of nearby residential properties and to minimise the impacts on local air quality. This condition is required to be pre-Commencement as the Construction Management Plan needs to be in place before any works take place and to mitigate against the impacts of the demolition and construction processes in accordance with Policies 29 and 34 of the Sutton Local Plan 2018.

- (21) If, during implementation of this Development, contamination is encountered which has not previously been identified, the contamination shall be fully assessed and a specific contaminated land assessment and associated remedial strategy shall be submitted to and agreed in writing by the Local Planning Authority before the additional remediation works are carried out. The agreed strategy shall be implemented in full prior to the completion of the Development hereby approved.

Reason: To prevent harm to human health and pollution of the environment in accordance with the aims and objectives of Policy 34 of the Sutton Local Plan 2018.

- (22) Prior to occupation of the relevant Phase of Development and upon completion of the agreed remediation works (pursuant to Condition 21), a verification report including quality assurance certificates that demonstrates the effectiveness of the remediation shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To prevent harm to human health and pollution of the environment in accordance with the aims and objectives of Policy 34 of the Sutton Local Plan 2018.

- (23) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a surface water drainage scheme for the Phase shall be submitted to and approved in writing by the Local Planning Authority. This scheme should include:

- (a) sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the Development;
- (b) details of how the proposed surface water drainage scheme will be maintained;
- (c) a drainage scheme nominating the ownership, management and maintenance arrangements;
- (d) the use of SuDS and balancing ponds where possible;
- (e) details to demonstrate that the surface water run-off generated up to and including the 100 years critical storm plus climate change allowance, will not exceed the run-off from the undeveloped Site following the corresponding rainfall event.
- (f) details of modelled drained area and storage structures, together with a detailed drainage layout drawing that show the pipe numbers, gradients and pipe sizes which aligns with the drainage calculations results.

In addition, 'brownfield' major developments are required to reduce post development runoff rates for events up to and including the 1 in 100 year return period event plus 40% climate change allowance, to the calculated greenfield rate (calculated in accordance with IoH124) or, where demonstrated not feasible, to not more than three times the calculated greenfield rates for the Site. It is recommended that a SuDS treatment train is utilised to assist in this reduction. Each Phase of the Development shall only be implemented in accordance with the relevant approved details.

Prior to above ground works (other than Phase 0 Works and Enabling Works) evidence (photographs and installation contracts) shall be submitted to demonstrate that the sustainable drainage scheme for the Site has been completed in accordance with the submitted details.

The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan for all of the proposed drainage components.

Reason: To safeguard the public from surface water flood risk, protect the environment and respond to climate change, in accordance with Policies SI12 and SI13 of the London Plan 2021 and Policy



32 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (24) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a scheme to ensure the Development is flood resilient, in particular basement and lower ground levels and other finished floor levels, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a Flood Warning and Evacuation Plan. The scheme shall be implemented and subsequently maintained, in accordance with the scheme's timing/ phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: Whilst we are satisfied at this stage that the proposed Development could be allowed in principle, the applicant will need to provide clarification of basement and lower ground levels to ensure that the proposed Development can go ahead without posing an unacceptable flood risk to future occupants, in accordance with Policies SI12 and SI13 of the London Plan 2021 and Policy 32 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (25) i) The Development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the Development in accordance with Secured By Design. Details of these measures shall be submitted to and approved in writing by the local planning authority prior to commencement of superstructure works within each Phase, excluding Phase 0 Works and Enabling Works, and shall be implemented in accordance with the approved details prior to occupation.

ii) Prior to occupation a Secured by Design certificate build or its equivalent awarded by a Designing Out Crime Officer from the Metropolitan Police Service on behalf of the National Police Chiefs Council shall be submitted to and approved by the Local Planning Authority.

Reason: To promote the well-being of the area in accordance with Policy 28 of the Sutton Local Plan 2018 and Policy D11 of the London Plan 2021.

- (26) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a detailed Circular Economy Statement and Refuse Strategy shall be submitted to and approved in writing by the Local Planning Authority. The statement shall adhere to the principles set out in the Outline Circular Economy Statement. The relevant Phase of Development shall be carried out in accordance with those details.

Reason: In the interests of sustainable waste management and in order to maximise the re-use of materials in accordance with London Plan Policy SI7. The condition is required to be pre-Commencement to ensure that sustainability principles are considered at the earliest opportunity.

- (27) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works), an Air Quality Assessment (AQA), including an Air Quality Neutral assessment detailing how the Development has been designed to achieve air quality neutral standards, together with any necessary mitigation, shall be submitted to and approved in writing by the Local Planning Authority.

Should the Air Quality Neutral assessment show that the Development proposed will not be air quality neutral, it should confirm the excess tonnage that would need to be offset. The AQA shall also consider measures that can be implemented to improve local air quality as part of an air quality positive approach, in line with the latest GLA Air Quality Positive Guidance. The measures set out within the AQA shall be implemented in accordance with the details so approved, and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect and improve local air quality, in accordance with Policy 34 of the Sutton Local Plan 2018 and Policy SI1 of the London Plan 2021. The condition is required to be pre-Commencement to ensure that air quality principles are considered at the earliest opportunity.



- (28) Prior to Commencement of Development (other than Phase 0 Works and Enabling Works) a Site Wide Energy Strategy and supporting system description including the provisions made for interconnecting pipework to link the Phases within the Site into a future District Heating Network must be submitted to and approved in writing by the Local Planning Authority.

The Site Wide Energy Strategy shall demonstrate how the Development will achieve a minimum 35% reduction in carbon dioxide emissions over Part L of the Building Regulations (2013) (when applying updated SAP 10 emission factors).

Reason: To ensure that the Development provides renewable energy, in the interests of safeguarding the environment, in accordance with Policy SI3 of the London Plan 2021 and Policy 31 of the Sutton Local Plan 2018. The condition is required to be pre-Commencement to ensure that energy principles are considered at the earliest opportunity to maximise sustainability.

- (29) Prior to the commencement of any superstructure works within each Phase (other than Phase 0 Works and Enabling Works) a finalised Overheating Assessment Report and outcome of thermal dynamic modelling based on DSY1 2020 High 50 weather files for a representative number of units to show that the cooling strategy is in accordance with the Mayor's cooling hierarchy and that 100% of the proposed dwellings and corridors are compliant with the relevant TM59 criteria must be submitted and approved by the Local Planning Authority. The submitted information must take account of the detailed design stage and the option taken forward for supplying space heating, domestic hot water and cooling to the Development.

Reason: To ensure a comfortable living environment for residents of the Development in accordance with Policy SI4 of the London Plan 2021 and Policy 33 of the Sutton Local Plan 2018

- (30) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) an Energy Statement demonstrating how the each Phase will conform with the Site Wide Energy Strategy to be approved pursuant to Condition 28 must be submitted to and approved by the Local Planning Authority. The Energy Statement should include:

- (i) a finalised fabric and energy efficiency specification for the dwellings based on further detailed design taking account of best practice psi-values for the dwellings and Passivehaus;
- (ii) revised Energy Use Intensity (EUI) calculations based on a robust methodology and confirmation of Space Heating Demand calculations to show that the GLA guideline values have been met;
- (iii) if the Preferred Option for supplying space heating, domestic hot water and cooling to the dwellings is progressed in the form of an ambient loop network served by air source heat pumps (ASHPs), written confirmation from the heat network operator and the GLA that future connection to a wider district heat network serving Sutton Town Centre is commercially and technically viable;
- (iv) Site plans showing details of proposed pipework routes and space within the Site to accommodate for plate heat exchangers to enable future connection of the Site to the wider heat network serving Sutton Town Centre;
- (v) details of energy costs to occupants;
- (v) revised and updated carbon emissions reporting spreadsheets, corresponding 'as designed' SAP and SBEM worksheets which take into account the finalised energy strategy and carbon offset calculations.

Reason: to ensure measures are implemented to reduce any detrimental environmental impacts and deliver an energy efficient and sustainable development, in accordance with Policy SI2 and SI3 of the London Plan 2018 and Policy 31 of the Sutton Local Plan 2018. The condition is required to be pre-Commencement to ensure that energy principles are considered at the earliest opportunity to maximise sustainability.

- (31) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) for the Phase has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.



Reason: To protect underground infrastructure and utilities during the construction process, in accordance with Policy 34 of the Sutton Local Plan. The condition is required to be pre-Commencement to ensure key infrastructure is protected

- (32) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-Development, for monitoring purposes will be secured, protected and inspected.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with the Environment Agency's Groundwater Protection: Principles and Practice, and in accordance with Policy 34 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met to prevent ground water pollution.

- (33) Prior to the Commencement of Development within each Phase (other than the Phase 0 Works and Enabling Works) a Dust Management Plan must be submitted to and approved in writing by the local planning authority. The DMP must include monitoring of dust deposition, dust flux, real-time PM10 continuous monitoring and/or visual inspections. This plan must incorporate the recommendations of (Table 6. Mitigation for a High-Risk Site) of the Air Quality Assessment and be in compliance with the GLA Control of Dust and Emissions during Construction and Demolition SPG.

Reason: To ensure air quality remains at an acceptable standard, in accordance with Policy 34 of the Sutton Local Plan 2018.

- (34) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a detailed Whole Life Carbon Statement must be submitted to and approved in writing by the Local Planning Authority.

The finalised WLC Assessment must:

- (i) contain updated carbon emissions estimates for the whole Development which take account of the detailed design phase and provide a greater level of certainty compared to the Outline WLC assessment
- (ii) demonstrate compliance with the London Plan Policy SI 2 and GLA WLC Guidance
- (iii) give further consideration to the measures identified in Outline WLC Assessment and expand on these to achieve further reductions in line with industry progress towards decarbonisation over the build out period for the scheme
- (iv) outline additional opportunities which have been taken to reduce embodied carbon further
- (v) confirm proposals for verification of WLC performance at post-construction and how these may be secured through planning conditions.

Thereafter, the relevant Phase of Development shall be constructed in accordance with those details as approved by the Local Planning Authority.

Reason: In the interests of sustainable development and to maximise on-Site carbon dioxide savings, in accordance with London Plan Policy SI 2, SI 3, the Mayor's Energy Assessment guidance and Local Plan Policy 31. The condition is required to be pre-Commencement to maximise on-Site carbon dioxide savings

- (35) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) the developer must provide confirmation that either:

a) all wastewater, surface water and all water network upgrades required to accommodate the additional flows from the Development have been completed;



or

b) a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason: To avoid sewer flooding and potential pollution incidents, in accordance with Policy 34 of the Sutton Local Plan 2018. This condition is necessary prior to Commencement as it involves subterranean works.

- (36) In the event that an existing tree(s) is proposed to be retained as part of a future Reserved Matters Approval, tree protection measures must be implemented prior to commencement of demolition and construction works, in accordance with the British Standard BS5837: Trees in relation to design, demolition and construction. The protective measures shall only be removed on completion of the Development.

Reason: To ensure that trees to be retained will not be damaged during demolition or construction, in accordance with best practice and Policy 28 of the Sutton Local Plan 2018.

- (37) Prior to Commencement of Development of each Phase, excluding Phase 0 Works and Enabling Works, a scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the noise level of 35 dB LAeq,16 hour in living rooms and bedrooms during the daytime (0700 to 2300 hours) and 30 dB LAeq,8 hour during the night time (2300 to 0700 hours) in bedrooms, in accordance with BS8233:2014, shall not be exceeded. Noise levels in bedrooms should also not normally exceed 45 dB LAmax,F more than 10 times during the night time. Where these levels cannot be met with windows open appropriate acoustic ventilation should be provided so that the room can be sufficiently ventilated. The acoustic performance of any passive vent, variable speed mechanical air supply unit or whole house ventilation must be sufficient to ensure that the noise level standards given above are not compromised. Once agreed in writing by the Local Planning Authority the approved details shall be installed prior to the Development being occupied and retained thereafter.

Reason: To ensure that the proposed residential units are adequately protected from noise and to ensure an adequate level of internal amenity is provided for future residents, in accordance with Policy 29 of the Sutton Local Plan 2018.

- (38) Prior to above ground work within each Phase (other than Phase 0 Works and Enabling Works) a wind assessment shall be submitted and approved in writing by the Local Planning Authority. The assessment shall demonstrate that safe and amenable wind conditions can be secured. The Development shall only be constructed in accordance with the approved details. Any mitigation measures will be implemented through the construction phase and permanently retained thereafter.

Reason: In the interests of the health and safety of future occupiers and users of the Development, in accordance with Policy 29 of Sutton Local Plan.

- (39) Child playspace shall be delivered in accordance with the approved details submitted with the relevant Reserved Matters Approval, with the play space(s) associated with each phase made available prior to first occupation of the phase and thereafter retained.

Reason: To ensure the delivery of high quality children's play spaces, in accordance with Policy H9 of the Sutton Local Plan 2018 and Policy S4 of the London Plan 2021.

- (40) a) Prior to any above ground works within the first Phase (other than Phase 0 Works and Enabling Works) a Site Wide Car Parking Design and Management Plan (CPDMP) shall be submitted to and approved in writing by the Local Planning Authority.

The Site Wide CPDMP shall set out the key principles that will guide parking management across the Development and the long-term strategy for allocating, managing and monitoring on-Site



parking including parking for blue badge and electric vehicles. The Site Wide CPDMP will include measures of how on-street parking within the Development will be minimised and provided only where necessary.

b) Prior to the commencement of superstructure works within each Phase (other than Phase 0 Works and Enabling Works), a Phase Specific Car Parking Design and Management Plan (CPDMP) shall be submitted to and approved in writing by the Local Planning Authority. The Phase Specific CPDMP shall set out the strategy for implementing the Site Wide CPDMP within the relevant Phase.

Once the Phase Specific CPDMP is approved the car parking areas shall be constructed and marked out prior to the first occupation of the Plot(s) to which they relate, and thereafter retained permanently for the accommodation of vehicles of occupiers to the premises and not used for any other purpose.

Blue badge car parking spaces shall be constructed and marked out as accessible parking bays prior to the first occupation of each phase to which they relate and retained thereafter.

Reason: To ensure that sufficient off-street parking areas are provided and not to prejudice the free flow of traffic or conditions of general safety along the adjoining highway, to ensure and promote easier access for disabled persons, in accordance with Policies 36 and 37 of Sutton Local Plan 2018 and Policy T6 of the London Plan 2021.

- (41) Prior to above ground works (other than Phase 0 Works or Enabling Works) within any Phase, details and samples of all finishes and specifications of highway materials and surfaces associated with that Phase shall be submitted and approved in writing by the Local Planning Authority. This will include details and samples associated with temporary access works, and landscaping measures to prevent unauthorised parking. The Development shall only be constructed in accordance with the approved details and retained thereafter.

Reason: To ensure a satisfactory standard of highway surfaces within the Development, in accordance with Policy 28 of the Sutton Local Plan 2018.

- (42) Prior to occupation of each Phase, a Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Traffic Management Plan shall set out the proposed management arrangements for vehicles movement within the relevant Phase and shall include:

- (a) details of any shared surfaces; and
- (b) details of appropriate road markings and signage internal to the Site to regulate the movement of traffic, cyclists and pedestrians.

The Development shall only be constructed in accordance with the approved details and retained thereafter.

Reason: To prevent obstruction of the public highway surrounding the Site and the internal roads and maintain safety for road users, in accordance with Policy 36 of the Sutton Local Plan 2018.

- (43) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) an Urban Greening Factor Statement must be submitted to the Local Planning Authority and approved in writing to demonstrate how the phase will contribute to:

- a) a Site-wide Urban Greening Factor target score of at least 0.4 using the Mayor of London's methodology referenced in Policy G5 of the London Plan 2021;
- b) a Green Space Factor of +0.2 compared to the baseline situation prior to development. The council's GSF scoring system set out in the council's 'Technical Guidance Note - Building a Sustainable Sutton' (June 2018) must be used for this purpose.

The measures set out shall be implemented prior to occupation of the final phase and thereafter retained.

Reason: To achieve the highest design and environmental standards possible, to protect and



enhance the borough's biodiversity and to reduce flood risk to and from new Development, in accordance with Policy 33 of the Sutton Local Plan 2018 and Policy G5 of the London Plan 2021.

- (44) Prior to above ground works within each Phase (other than Phase 0 Works and Enabling Works) details of cycle space provision for the proposed uses and associated visitor spaces must be submitted to and approved in writing by the Local Planning Authority.

Prior to the first occupation or use of each building the applicant must make the necessary provisions so that cycle parking provision is in accordance with the London Plan (as relevant to the building) to determine an appropriate level of cycle parking which should be to the minimum standards set out, secure and well-located. The cycle parking should be designed and laid out in accordance with the minimum recommendations and guidance contained in the London Cycling Design Standards, installed prior to first occupation / use within each building and permanently retained thereafter.

Reason: In the interests of promoting cycling as a sustainable and non-polluting mode of transport, in accordance with Policy 37 of the Sutton Local Plan 2018 and Policies D3 and T5 of the London Plan 2021.

- (45) Prior to commencement of superstructure works within each Phase (other than Phase 0 Works and Enabling Works) a detailed Delivery and Servicing Plan (DSP) for the proposed use(s) shall be submitted to and approved in writing by the Local Planning Authority. The DSP should provide details of the expected type and expected frequency of service vehicles including waste removal and for all uses, the hours within which they would arrive and depart, the intended locations for loading and unloading of vehicles and associated waiting and turning areas and access routes and show clear vehicle swept paths based on up to date information in relation to overall vehicle movements associated with the Development. The relevant Phase of Development shall only be constructed in accordance with the approved details and thereafter retained.

No residential building shall be occupied until the relevant Delivery and Servicing Plan has been submitted to and approved in writing by the Local Planning Authority. No permitted use within any non-residential unit shall be commenced until the relevant Delivery and Servicing Plan for the relevant Plot has been submitted and approved.

Reason: To ensure that vehicle movements associated with the use hereby permitted remains consistent and that the use shall not represent any unacceptable level, type, location or timing of vehicle movements such that the safety of pedestrians and cyclists and the efficiency of bus operations shall be unduly prejudiced, nor that residential amenity will be unduly affected.

- (46) Prior to above ground works within each Phase (other than Phase 0 Works and Enabling Works), a Refuse Strategy comprising full details of the refuse and recycling storage and collection must be submitted to and approved in writing by the Local Planning Authority. The Refuse Strategy should make reference to the Council's Recycling and Waste Planning Guidance 2023. The approved details must be implemented in full prior to first occupation of that phase to which they relate and retained thereafter.

Reason: To avoid harm to the character and appearance of the street scene and local area and to ensure adequate provision of refuse and recycling facilities in the interests of amenity for future and neighbouring occupiers, in accordance with Policy 28 of the Sutton Local Plan 2018.

- (47) Prior to above ground works (other than Phase 0 Works and Enabling Works) within each Phase details of and location of Electric Vehicle charging infrastructure for the provision of electric vehicles associated with the Phase shall be submitted to and agreed in writing with the Local Planning Authority.

The details and location of such provision should take into consideration the availability of electrical supply and should therefore be designed making reference to information held by the local distribution network operator. Charging points for electric vehicles must be installed and made available for use with at least 20% of the total number of car parking spaces equipped with active electric vehicle charging points with all other spaces equipped with passive provision for electrical



vehicle charging.

Reason: To provide charging facilities for electric vehicles and to encourage the uptake of electric vehicles, in accordance with Policy T6 of the London Plan 2021.

- (48) Prior to the commencement of superstructure works (within each Phase (other than Phase 0 Works and Enabling Works), the following details (as relevant to the reserved matters approval for the Phase) shall be submitted to and approved by the Local Planning Authority and the works subsequently implemented in accordance with the details approved:

- a) drawings/details of any rooftop plant, screening and parapet finishes, presented at 1:20 scale.
- b) specification of balconies and/or winter gardens, communal entrances, vehicular entrances and gates, duplex entrances and typical bay (showing window reveals, frames, cills and headers) at a scale of 1:20 (in plan, section and elevation)
- c) details of all rainwater pipes, flues or grills where these are visible on the external façade of the building
- d) samples of bricks/materials finishes to all external elevations (e.g. brick slips, RAL colour samples, metal work finishes etc.) to be presented for all buildings within the Phase.

Reason: To protect or enhance the character and amenity of the area and ensure an exemplary finish to the Development hereby approved, in accordance with Policy 28 of the Sutton Local Plan 2018 and Policy D4 of the London Plan 2021.

- (49) No building hereby permitted shall be occupied until a detailed maintenance plan of the proposed living roofs, including who shall be responsible for the maintenance of the proposed roofs for that relevant building, has been submitted to and approved by the Local Planning Authority.

Reason: In the interests of maintaining the longevity and effectiveness of the living roofs so that they deliver the environmental benefits, in accordance with Policy of the Sutton Local Plan 2018 and Policies G1 and G5 of the London Plan 2021.

- (50) Prior to the occupation of the Development within each Phase, full details of hard and soft landscaping for that Phase shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part or relevant phase of the Development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved, unless the Local Planning Authority gives its consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs in accordance with Policy 28 of the Sutton Local Plan 2018.

- (51) Prior to first occupation of each Phase a landscaping management plan must be submitted to and approved in writing by the Local Planning Authority. The plan for each Phase of the Development shall set out how the planting will be managed for a minimum of two years from practical completion of the phase, to ensure full and successful establishment of plants and trees. Any trees or shrubs which die within five years of completion of the phase, shall be replaced with the same species, unless otherwise approved in writing by the Local Planning Authority. The plans shall identify all landscaped areas that will be under communal management. The planting shall be thereafter managed in accordance with the approved management plan.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs in accordance with Policy 28 of the Sutton



Local Plan 2018.

- (52) Prior to first occupation of each Phase a public realm management plan must be submitted to and approved in writing by the Local Planning Authority. The plan for each Phase of the Development shall set out how the public realm will be managed including its maintenance.

Reason: To ensure that the public realm provides and maintains space that is attractive and accessible and contributes to the highest possible standards of comfort, good acoustic design, security and ease of movement, in accordance with Policy 25 of the Sutton Local Plan 2018 and Policy D8 of the London Plan 2021.

- (53) Prior to occupation within each Phase an overarching wayfinding strategy for that Phase must be submitted to and approved in writing by the Local Planning Authority detailing the design approach to wayfinding infrastructure to be delivered.

Reason: In the interests of public safety, wayfinding and promoting active travel, in accordance with Policy T3 of the London Plan 2021.

- (54) Prior to first occupation of any non-residential unit hereby permitted with a commercial kitchen, details of any ventilation system for the removal and treatment of cooking odours from any commercial catering are to be submitted to and approved in writing by the Local Planning Authority.

The approved details shall be fully implemented before the first use of the relevant non-residential unit and shall thereafter be permanently retained in an efficient manner.

Reason: To safeguard the appearance of the premises and minimise the impact of cooking smells, odours and noise, in accordance with Policies 28 and 29 of the Sutton Local Plan 2018.

- (55) Prior to commencement of superstructure works within a Plot where uses falling within Use Class F.2(b) and/or Sui Generis (drinking establishment with or without expanded food provision and/or venue for live music performances) are proposed, a noise assessment and mitigation scheme (NMS) shall be submitted to, and approved in writing by, the Local Planning Authority. The NMS will set out all relevant assessment assumptions (including assumed operating conditions, adopted source data and calculations) and will demonstrate that the following noise criteria will be met under all reasonably foreseeable circumstances:

- i. 53 dB (L10,5min) in the 63Hz centre frequency octave band and 41 dB L10,5min in the 125Hz centre frequency octave band in existing or consented habitable rooms under open window conditions between the hours of 07:00 and 23:00.
- ii. 49 dB L10,5min in the 63Hz centre frequency octave band and 37 dB L10,5min in the 125Hz centre frequency octave band existing or consented habitable rooms under open window conditions between the hours of 23:00 and 07:00.

The approved NMS shall be fully implemented in the subsequent development. Plant and equipment approved in the NMS will be maintained and operated in accordance with the approved details.

Reason: To ensure that the proposed and surrounding residential properties and other noise sensitive premises in the vicinity of Site are adequately protected from noise nuisance, in accordance with Policy 29 of the Sutton Local Plan 2018.

- (56) Prior to the operation of any plant the following must be submitted and approved by the Local Planning Authority.

a) The rating level of the noise determined by the cumulative sound emissions of any plant shall not exceed the levels stated in table 10.1 of the AECOM Limited Noise Survey and Preliminary Acoustic Assessment of March 2024 Project number: 60712562.

b) The noise levels shall be measured or predicted 1m externally to any window of a habitable room at the nearest residential facade during any normal mode of operation. Measurements and assessment shall be made according to British Standard 4142:2014



- c) The cumulative sound emissions of any emergency plant should not exceed the levels stated in table 10.2 of the AECOM Limited Noise Survey and Preliminary Acoustic Assessment of March 2024 Project number: 60712562. The noise levels shall be measured or predicted 1m externally to any window of a habitable room at the nearest residential facade during any normal mode of operation. Measurements and assessment shall be made according to British Standard 4142:2014
- d) The testing of any emergency plant shall only be carried out for up to 1 hour per calendar month during typical working hours 09.00-17.00 Monday - Friday not including public holidays.

Reason: To ensure that the proposed and surrounding residential properties and other noise sensitive premises in the vicinity of Site are adequately protected from noise nuisance, in accordance with Policy 29 of the Sutton Local Plan 2018.

- (57) a) Each application for reserved matters shall be accompanied by a detailed Whole Life-Cycle Carbon Statement in line with the GLA's Whole Life-Cycle Assessment Guidance, which shall be submitted to and approved in writing by the Local Planning Authority. The statement shall adhere to the principles set out in the outline Whole Life-Cycle Carbon Statement. The Development shall be carried out in accordance with the details so approved.
- b) Prior to the first occupation of the last building within each Phase, the post-construction tab of the GLA's whole life carbon assessment template should be completed accurately and in its entirety in line with the GLA's Whole Lifecycle Carbon Assessment Guidance. The post-construction assessment should provide an update of the information submitted at planning submission stage, including the whole life carbon emission figures for all life-cycle modules based on the actual materials, products and systems used. This should be submitted to the GLA at: [zerocarbonplanning@london.gov.uk](mailto:zerocarbonplanning@london.gov.uk) along with any supporting evidence as per the guidance. Confirmation of a satisfactory submission to the GLA shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the last building within each Phase.

Reason: In the interests of sustainable development and to maximise on-Site carbon dioxide savings, in accordance with Policy 31 of the Sutton Local Plan 2018 and Policy SI2 of the London Plan 2021.

- (58) a) Each application for reserved matters shall be accompanied by a detailed Circular Economy Statement in line with the GLA's Circular Economy Statement Guidance, which shall be submitted to and approved in writing by the Local Planning Authority. The statement shall adhere to the principles set out in the outline Circular Economy Statement. The Development shall be carried out in accordance with the details so approved.
- b) Prior to the first occupation of the last building within each Phase, a Post Completion Report setting out the predicted and actual performance against all numerical targets in the relevant Circular Economy Statement shall be submitted to the GLA at: [CircularEconomyLPG@london.gov.uk](mailto:CircularEconomyLPG@london.gov.uk), along with any supporting evidence as per the GLA's Circular Economy Statement Guidance. The Post Completion Report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting form and Bill of Materials. Confirmation of a satisfactory submission to the GLA shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the last building within each Phase.

Reason: In order to maximise the re-use of materials and in the interests of sustainable waste management, in accordance with Policy SI7 of the London Plan 2021.

- (59) Prior to first occupation of the last building within each Phase, a completed Water Efficiency Calculator for New Dwellings must be submitted to the Local Planning Authority and approved in writing to show that internal potable water consumption for each of the dwellings will meet a target water use of 110 litres per person per day (l/p/d) based on the Government's national calculation method for water efficiency for the purposes of Part G of the Building Regulations. The Water Efficiency Calculator should be accompanied by details of the location and type of all appliances or fittings that use water, the capacity or flow rate of any equipment and any rainwater or greywater collection systems incorporated as part of the Development. The Development shall be carried out in accordance with the approved details and the approved details shall be complied with for the life



of the Development.

Reason: To conserve water supplies in an area of water stress, in accordance with Policy 33 of the Sutton Local Plan 2018.

- (60) All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, Site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on Site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, Site preparation and construction phases of the Development on the online register at <https://nrmm.london/>

Reason: In order to reduce the environmental impact of the construction and the impact on the amenities of neighbouring residents and to accord with Policies 29 and 34 of the Sutton Local Plan 2018.

- (61) No satellite antenna, apparatus or plant of any sort (including structures or plant in connection with the use of telecommunication systems or any electronic communications apparatus) shall be erected on the side or roof of any buildings unless and until details of their size and location have previously been submitted to and approved by the Local Planning Authority. The relevant part of the Development shall be carried out in accordance with the approved details and thereafter retained.

Reason: In the interest of visual amenity and to accord with Policy 28 of the Sutton Local Plan 2018.

- (62) The lead contractor of each Phase shall be signed up to the Considerate Constructors Scheme (CCS) and its published Code of Considerate Practice, and the details of (i) the membership, (ii) contact details, (iii) working hours as stipulated under the Control of Pollution Act 1974, and (iv) Certificate of Compliance, shall be clearly displayed on the Site so that they can be easily read by passing members of the public, and those details shall thereafter be maintained on display throughout the duration of the works forming the subject of this permission

Reason: To mitigate the impact of construction work upon the levels of amenity that neighbouring and future occupiers should reasonably expect to enjoy and to ensure accordance with Policies 29 and 34 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (63) The Phase 0 Works shall be limited to the demolition of the bungalows known as 58 and 59 Elm Grove, including structures within the curtilage, to grade level only. No works of excavation are permitted other than to temporarily secure essential services. Upon completion of the demolition works the Site must be secured using a safety hoarding.

Reason: To ensure the Site is left in a satisfactory condition in terms of safety and visual amenity, in accordance with Policy 28 and 34 of the Sutton Local Plan 2018.

- (64) The Phase 0 Works shall be carried out in accordance with the relevant sections of the Outline Construction Logistics Plan dated 14 March 2024, prepared by Markides (Project Number: 22131; Doc Number: CLP01)

Reason: To ensure that the proposed Development does not interfere with the free flow of traffic and conditions of safety on the public highway, and to ensure the Development process does not have a significant adverse impact on the amenities of nearby residential properties in accordance with Policies 29 and 36 of the Sutton Local Plan 2018 and Policy T7 of the London Plan 2021.

- (65) The Development, excluding Phase 0 Works and Enabling Works, may not be begun unless:

- a) a biodiversity gain plan has been submitted to the planning authority; and
- b) the planning authority has approved the plan



Reason: To deliver the legally-binding 10% biodiversity net gain, in accordance with Section 13 of the Environment Act 2021, as enacted in Section 90A of the Town and Country Planning Act 1990 (as amended), as well as Policy 26 of the Sutton Local Plan 2018 and Policy G6 of the London Plan 2021.

- (66) Prior to rising above the damp proof course of each Phase of the Development (other than in relation to Phase 0 Works and Enabling Works) hereby permitted, a scheme for wildlife and nesting features for that relevant Phase shall be submitted to and approved in writing by the Local Planning Authority.

The scheme must include full details of type and numbers of each feature, location (shown on plan and elevation views if located on buildings) of each feature, height above ground (if applicable) and nearest external lighting.

Features must be installed in accordance with the approved scheme prior to occupation of the relevant building and thereafter retained in perpetuity.

Reason: To enhance the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018 and Policy G6 of the London Plan 2021.

- (67) Prior to installation of any lighting features for each Phase of the Development hereby permitted, a pre-and post-Development lighting scheme for that relevant Phase shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme will include:

Pre-Development light levels, including ambient lighting from the surrounds, presented as 1m centre spot values down to 0.1lux, with isolux contour lines showing light degradation;

Post-Development light levels, presented as 1m centre spot values down to 0.1lux, with isolux contour lines showing light degradation and 3D luminance in-the-scene modelling;

Assessment of external lighting and light spill from any buildings through windows / security lighting etc.

The technical details of the luminaires and columns to be used, including their location, type, shape, dimensions and expected luminance output and specifically explaining what design attributes have been chosen to minimise light pollution;

The provision of vertical spill impacts, shown in cross-sectional views on a 1m centre vertical and horizontal scale.

Lighting will be designed and installed to minimise impacts on biodiversity, as outlined in Guidance Note 08/23 Bats and Artificial Lighting (Institute of Lighting Professionals and the Bat Conservation Trust).

Reason: To protect the biodiversity value of the land and adjacent land, in accordance with Policy 26 of the Sutton Local Plan 2018 and Policy G6 of the London Plan 2021.

- (68) Ducting shall be provided to all dwellings to facilitate full fibre or equivalent broadband connectivity infrastructure.

Reason: To ensure sufficient digital connectivity, in accordance with Policy SI 6 of the London Plan 2021.



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### **Informative(s):**

( 1 ) This approval only grants permission under Section 57 of the Town and Country Planning Act 1990. Further approval or consent may be required by other legislation, in particular the Building Regulations and you should contact Building Control on 020 8770 5000 before proceeding with the work.

( 2 ) Should you require details of the consideration of the application that has led to this decision, the file may be inspected under the provisions of the Local Government (Access to Information) Act 1985 via the following link: <https://www.sutton.gov.uk/propertyapplicationsearch>

( 3 ) The permission hereby granted confers no rights on the applicant to encroach upon, extend over or otherwise enter upon property not in his ownership for any purposes connected with the implementation of this planning permission.

( 4 ) This application has been assessed against the relevant policies of the London Plan 2021 and Sutton's Local Plan 2018. The proposal is in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and for this reason planning permission is granted.

( 5 ) Preventing Damage to the Public Highway:

Care should be taken by all applicants to ensure that no damage is caused to the public highway adjacent to their site during demolition and/or construction work. The Council will always seek to recover any costs incurred in repairing or making good such damage from the owner of the development site, except where they are otherwise able to identify the person(s) who caused the damage and are willing to accept the recoverable costs.

#### **Pre-commencement Highways Condition Surveys:**

To avoid the above costs arising, and BEFORE ANY WORK COMMENCES on your site, PLEASE SEND A BLANK EMAIL to [highways@cs@sutton.gov.uk](mailto:highways@cs@sutton.gov.uk) to receive further details on how to arrange a pre-commencement photographic survey of the public highway conditions around your site. Where the Council decides that a survey is necessary a Returnable Deposit and Inspection Fee (Highways to advise) will be payable to London Borough of Sutton. The pre-commencement survey will ensure you are not charged for any damage which existed prior to commencement of your works. If you fail to arrange a pre-commencement survey it will be assumed that any damage to the highway was caused by your own activities and you will be charged the full cost of repair. Once the site works are completed you need to contact Highways to arrange for a post construction inspection to be carried out. If there is no further damage, the case will be closed, and your deposit refunded. If damage is found to have occurred, the Council will carry out the repairs, and the costs will be charged to you, whether less or more than the deposit value.

( 6 ) Where applicable the developer/applicant is hereby advised to remove all site notices on or near the site that were displayed in pursuance to the application.

( 7 ) Your work may be affected by the provisions of the Party Wall Act 1996 which requires adjoining owners to be formally notified by the owner. This is not a planning matter and further details are issued by the Government <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>.

### **Community Infrastructure Levy (CIL)**



The Council consider that this permission is liable for a contribution under the Community Infrastructure Levy (CIL).

Before work commences there are certain forms which you must complete and return to [planningobligations@sutton.gov.uk](mailto:planningobligations@sutton.gov.uk). Please note that penalty surcharges will be added to contributions should CIL regulations not be followed.

Further details of what to submit and timescales in relation to the Community Infrastructure Levy can be found online at - <https://www.gov.uk/guidance/community-infrastructure-levy>

CIL forms can be found at - [https://www.planningportal.co.uk/info/200126/applications/70/community\\_infrastructure\\_levy/5](https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5)

#### **Building Regulations**

Please note that this is a planning permission only and you may also require approval under the Building Regulations. If you are in any doubt about this you can get further information via <http://www.sutton.gov.uk/buildingcontrol> or by emailing [buildingcontrol@sutton.gov.uk](mailto:buildingcontrol@sutton.gov.uk).



24th January 2025

Spencer Palmer  
Strategic Director  
Environment, Housing and Neighbourhoods



**LONDON BOROUGH OF SUTTON  
APPENDIX TO PLANNING DECISION NOTICES  
NOTES TO APPLICANTS**

### **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development, or to grant it subject to conditions, you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990 (as amended).

Before you decide to appeal you may wish to consider amending your proposal to meet the Council's reasons for refusing permission. The Council's planning staff are always prepared to discuss with you ways to avoid an appeal by submitting an alternative application. This may involve a charge in line with our pre-application service ([https://www.sutton.gov.uk/info/200155/planning/1113/pre-application\\_planning\\_advice](https://www.sutton.gov.uk/info/200155/planning/1113/pre-application_planning_advice))

If you want to appeal, then you must do so within 6 months of the date of this notice. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

You can appeal using a form that you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Customer Support Unit, Tel: 0117 372 6372. Appeal forms and guidance can also be downloaded from the Planning Inspectorate's website <https://www.gov.uk/appeal-planning-decision>.

Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal at <https://www.gov.uk/appeal-planning-decision>. The Inspectorate will publish details of your appeal on the internet. This may include a copy of the original planning application form and relevant supporting documents supplied to the local planning authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information, that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### **Purchase Notices**

If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council, or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provision of Part VI of the Town and Country Planning Act 1990.



## **Compensation**

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State appeal or reference of the application to him.

These circumstances are set out in section 114 and related provisions of the Town and Country Planning Act 1990 (as amended).

## **The Party Wall etc. Act 1996**

Anyone intending to carry out work described in the Act **MUST** give adjoining owners at least 2 months notice in writing of their intentions.

The Act covers:- (i) work to be carried out directly to an existing party wall or structure

(ii) new building at or astride the boundary line between properties

(iii) excavation within 3 or 6 metres of a neighbouring building or structure, depending on the depth of the hole or foundations

If you are not sure whether the Act applies to work that you are planning, you should seek professional advice. A free explanatory booklet is available from ODPM Free Literature, PO Box 236, Wetherby, West Yorkshire, LS23 7BN. Tel 0870 1226236 e-mail [odpm@twoten.press.net](mailto:odpm@twoten.press.net)



**APPENDIX 2 – AGREED FORM S106 AGREEMENT**



**Dated**

**2025**

**THE LONDON BOROUGH OF SUTTON**

[ ]

[ ]

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**PLANNING OBLIGATION BY DEED PURSUANT TO  
SECTION 106 OF THE TOWN AND COUNTRY PLANNING  
ACT 1990 AND ASSOCIATED POWERS**

**RELATING TO THE DEVELOPMENT OF LAND AT ELM  
GROVE ESTATE, 216-220 HIGH STREET, SUTTON SM1  
1NU**

**PLANNING APPLICATION NUMBER: DM2024/00392**

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## BETWEEN

- (1) **THE LONDON BOROUGH OF SUTTON** of the Civic Offices, St Nicholas Way, Sutton SM1 1EA ("the Council");
- (2) [REDACTED] (Company Number [REDACTED]) whose registered office is at [REDACTED] ("Owner"); and
- (3) [[REDACTED] (Company Number [REDACTED]) whose registered office is at [REDACTED] ("Mortgagee")]

## WHEREAS

- (A) The Council is the local planning authority for the purposes of the Act in respect of the Site and by whom the obligations in this Agreement are enforceable.
- (B) On 15 March 2024, the London Borough of Sutton as landowner submitted the Planning Application to the Council for Planning Permission to develop the Site for the purposes and in the manner described in the Planning Application.
- (C) The Council resolved at its Planning Committee meeting on 4 September 2024 to grant the Planning Application subject to conditions, the completion of a Section 106 Agreement and a satisfactory Stage 2 referral to the Mayor of London.
- (D) The Planning Permission was granted on [REDACTED] at which time there was no third party with an interest in the Site willing to enter into this Deed with the Council.
- (E) This Deed is entered into with the intention of satisfying condition 3 of the Planning Permission.
- (F) The Owner(s) is/are the registered proprietor of a [freehold/leasehold] interest in the Site and registered at the Land Registry under title number[s] [REDACTED]. The Owner(s) is/are entering into this Deed with the intention of binding their aforementioned interests in the Site.
- (G) The Council has considered the provisions of the development plan and taken into account planning considerations affecting the Site and considers that in the interests of the proper planning of its area the Development of the Site ought to only be permitted subject to the terms of this Agreement and for that purpose the parties are willing to enter into this Agreement.

## IT IS AGREED as follows:

### OPERATIVE PROVISIONS

#### 1 INTERPRETATION

- 1.1 For the purposes of the recitals and this Agreement, the following words and expressions shall have the following meaning:

"1980 Act" means the Highways Act 1980 (as amended);

"1990 Act" means the Town and Country Planning Act 1990 (as amended);

"Additional Affordable Housing Statement" means a document to be submitted to the Council as part of each Viability Review except the Late Stage Review if a Surplus arises under that Viability Review, containing the following information:

- (a) calculations showing what the relevant Affordable Housing Surplus is and how it will be applied to increasing the Affordable Housing Minimum or the latest previously approved Affordable Housing Enhanced Minimum in accordance with APPENDIX 1 to Schedule 3; and
- (b) the Additional Affordable Housing Target Tenure Split;



**"Additional Affordable Housing Target Tenure Split"** means:

- (a) a minimum of 75 per cent of the Additional Affordable Housing Units to be provided as London Affordable Rented Housing or Social Rented Housing; and
- (b) a minimum of 25 per cent of the Additional Affordable Housing Units to be provided as London Shared Ownership Housing;

unless otherwise agreed in writing by the Council;

**"Additional Affordable Housing Units"** means the Market Housing Units to be converted to Affordable Housing pursuant to the Affordable Housing Enhanced Minimum and Additional Affordable Housing Statement(s) to be approved under Schedule 3 of this Agreement;

**"Affordable Housing"** means housing including London Affordable Rented Housing, London Shared Ownership Housing and Social Rented Housing provided to eligible households whose needs are not met by the market and which housing should (a) meet the needs of eligible purchasers or renters including availability at a cost low enough for them to afford, determined with regard to local incomes and local housing prices, and (b) include provision for the home (subject to the terms of this Deed where relevant) to remain at an affordable price for future eligible purchasers or renters, or, if these restrictions are lifted, for the subsidy (if any) to be recycled for alternative affordable housing provision;

**"Affordable Housing Enhanced Minimum"** means a minimum quantum of Dwellings (expressed as a percentage by Habitable Room) to be provided as Affordable Housing that is increased from the Affordable Housing Minimum or the latest previously approved Affordable Housing Minimum as a result of the application of an Affordable Housing Surplus in accordance with an Additional Affordable Housing Statement to ensure that the maximum quantum of Affordable Housing is being secured on public land in accordance with London Plan Policy H8;

**"Affordable Housing Minimum"** means the minimum quantum of Dwellings to be provided as Affordable Housing corresponding with 50 per cent (by Habitable Room) of the total number of Dwellings;

**"Affordable Housing Provider"** means:

- (a) a provider of Affordable Housing registered under section 111 of the Housing and Regeneration Act 2008 (or such other relevant previous or amended or replacement statutory provision);
- (b) an approved development partner of Homes England (or any successor agency) which is eligible to obtain grant funding;
- (c) any other body specialising in the provision of Affordable Housing; or
- (d) the Council.

in each case either nominated or approved by the Council (such approval not to be unreasonably withheld or delayed);

**"Affordable Housing Surplus"** means, in respect of each Viability Review, the proportion of the Surplus under the relevant Updated Viability Appraisal to be used for the delivery of Affordable Housing, being:

- (a) in respect of the Early Stage Review, 100 per cent of the Surplus;
- (b) in respect of the Mid-Stage Review, 100 per cent of the Surplus; and
- (c) in respect of the Late Stage Review, 60 per cent of the Surplus;



**"Affordable Housing Units"** means the Dwellings to be provided as Affordable Housing in accordance with Schedule 2 comprising not less than 50% (fifty) per cent of the Dwellings (by Habitable Room) and **"Affordable Housing Unit"** shall be construed accordingly;

**"Air Quality Contribution"** means a financial contribution paid by the Owner to the Council in accordance with Schedule 10 as follows:-

(a) if the Development is Phased – to account for any shortfall in meeting the Air Quality Neutral standard, such contribution to be calculated post-construction of the relevant Phase at a rate of £29,000 per tonne of NOx shortfall (such contribution to be Indexed in accordance with Clause 14), to be applied by the Council towards air quality improvement projects across the Borough; or

(b) if the Development is proceeding under one Phase – one contribution to account for any shortfall in meeting the Air Quality Neutral standard, such contribution to be calculated post-construction of the Development at a rate of £29,000 per tonne of NOx shortfall (such contribution to be Indexed in accordance with Clause 14), to be applied by the Council towards air quality improvement projects across the Borough;

**"Air Quality Neutral"** means as defined in the London Plan and accompanying guidance issued by the GLA;

**"Air Quality Assessment"** means an air quality assessment as follows:-

(a) if the Development is Phased – for each Phase of the Development which assesses the performance of the relevant Phase against the Air Quality Neutral standard to be submitted by the Owner in accordance with Condition 27 of the Planning Permission; or

(b) if the Development is proceeding under one Phase – one assessment which assesses the performance of the Development as a whole against the Air Quality Neutral standard to be submitted by the Owner in accordance with Condition 27 of the Planning Permission;

**"Authority's Area"** means the administrative area of the Council;

**"Biodiversity Gain Plan"** means the biodiversity gain plan approved by the Council in accordance with condition 65 of the Planning Permission;

**"Biodiversity Net Gain Maintenance Scheme"** means a scheme to inform the nature and delivery of the Biodiversity Gain Plan which must include:

(a) a timetable for implementing the proposals in the Biodiversity Gain Plan;

(b) proposals for the management of any areas contributing to the overall biodiversity net gain of 10% for a period of 30 years;

**"Biodiversity Net Gain Review Fee"** means the sum of £1,000 to be paid to the Council and used towards the costs of reviewing and monitoring compliance with the Biodiversity Net Gain Maintenance Scheme;

**"Bound Land"** means that part of the Site shown [ ] on the Plan

**"Building"** means any building constructed pursuant to the Planning Permission and **"Buildings"** shall be constructed accordingly;

**"Carbon Offset Contribution"** means the Index Linked amount calculated in accordance with paragraph 1 of Schedule 4 and such amount to be used as a contribution by the Council towards the provision of offsite carbon reduction measures within the Authority's Area;

**"Carbon Offset Contribution Recalculation"** means the actual Carbon Reduction Shortfall in respect of the relevant Phase x £95 x 30 years;



**"Car Parking Management Plan"** means a strategy to be submitted by the Owner to the Council for the management of the approved car parking spaces within the Development which demonstrates how use of the car parking spaces will be prioritised amongst Occupiers, in terms of their need with Returning Residents taking precedence;

**"Carbon Reduction Shortfall"** means the shortfall in meeting the Energy Strategy Target (expressed in tonnes of CO<sub>2</sub>) in relation to the Energy Strategy Target for the relevant Building;

**"Charge"** means a mortgage, charge or other security or loan documentation granting a security interest in the Affordable Housing Units and/or the Additional Affordable Housing Units (or any number of them) in favour of the Mortgagee;

**"Commencement of Development"** means the carrying out in relation to the Development of any material operation (as defined within section 56(4) of the 1990 Act) on the Site pursuant to the Planning Permission but (for the purposes of this Agreement) excluding operations consisting of:

- (a) site clearance and preparation;
- (b) demolition (provided always that such works do not relate to any listed building within the Site);
- (c) archaeological investigations and works;
- (d) ground investigations;
- (e) site survey works;
- (f) tree protection works;
- (g) temporary access construction works (which for the avoidance of doubt shall include the Temporary Access defined in Schedule 4);
- (h) preparatory or remediation works;
- (i) works for the laying termination or diversion of services;
- (j) the demolition of the bungalows known as 58 and 59 Elm Grove (or other existing building(s) as agreed in writing with the Council), including structures within the curtilage, which for the avoidance of doubt shall include:
  - (i) asbestos survey;
  - (ii) erection of hoarding;
  - (iii) installation of noise/dust monitors;
  - (iv) disconnection of mains services to properties concerned and meters removed;
  - (v) demolition of existing bungalow structures (or structures of other existing building(s) as agreed in writing with the Council) to grade level;
  - (vi) removal of strip foundations;
  - (vii) removal of all spoil and debris from site; and
  - (viii) other associated works with demolition works;
- (k) the erection of any temporary means of enclosure or site notices;
- (l) decontamination works;



- (m) erection of any fences and hoardings around the Site;
- (n) provision of temporary accommodation reasonably required for construction purposes only; and
- (o) environmental site investigations,

and **Commence** and **Commenced** shall be construed accordingly;

**"Commercial Travel Plan"** means a plan to promote sustainable modes of transport and to discourage use of single car occupancy by occupiers of the Commercial Units;

**"Commercial Travel Plan Monitoring Fee"** means the amount of £6,000 Index Linked to be used towards the Council's costs of monitoring the implementation of the Commercial Travel Plan;

**"Commercial Units"** means the commercial units within the Development the location of which are shown on the drawings approved by the Planning Permission;

**"Confirmatory Deed"** means the confirmatory agreement in the form attached at Appendix 4 of this Deed incorporating where necessary any changes to that agreed form of draft deed provided such changes have been agreed in writing in advance by the Council;

**"Contributions"** means together the Air Quality Contribution, Carbon Offset Contribution, and Pedestrian Safety Improvement Works Contribution;

**"Date of Deemed Service"** means, in each instance where a Mortgagee has served a Default Notice under paragraph 3.1.1 of Schedule 2, the later of the following two dates:

- (a) the following date in respect of service on the Council:
  - (i) in the case of service by delivery by hand to the Council's offices, 5pm on the date on which the Default Notice or delivered; or
  - (ii) in the case of service using first class registered post to the Council's offices, the second Working Day after the date on which the Default Notice is posted (by being placed in a post box or being collected by or delivered to Royal Mail) PROVIDED THAT the Mortgagee is able to evidence that the Default Notice was actually delivered to the Council (by Royal Mail proof of delivery or otherwise);

**"Default Notice"** means a notice in writing served on the Council by the Mortgagee under paragraph 3.1.1 of Schedule 2 of the Mortgagee's intention to enforce its security over the relevant Affordable Housing Units and/or Additional Affordable Housing Units;

**"Defects Liability Period"** means such period of time following practical completion of a building in which a contractor may remedy defects as may be included in the building contract for the relevant building;

**"Developer"** means the person undertaking construction of the Development;

**"Development"** means the development of the Site pursuant to the Planning Permission;

**"Development Viability Information"** means:

- (a) in respect of the Early Stage Review, an Updated Viability Appraisal and an Additional Affordable Housing Statement;
- (b) in respect of the Mid-Stage Reviews an Updated Viability Appraisal and an Additional Affordable Housing Statement; and



- (c) in respect of the Late Stage Review, an Updated Viability Appraisal,  
all of which should be based on evidence submitted to the Council;

**"Disposal"** means:

- (a) a Sale;
- (b) the grant of a lease of a term of less than 125 year; or
- (c) the grant of an assured shorthold tenancy agreement or a short term let

and **"Dispose"**, **"Disposals"** and **"Disposed"** shall be construed accordingly;

**"District Heat Facility"** means a district heating facility that is capable of providing a constant supply of hot water and space heating to the Development and shall include any subsequent replacement or addition to such a facility;

**"District Heat Network"** means a network used to supply hot water and space heating from a District Heating Facility;

**"Dwelling"** means the units of residential accommodation to be provided as part of the Development comprising the Open Market Housing Units and the Affordable Housing Units;

**"Early Stage Review"** means a review of the viability of the Development in accordance with Part 1 of Schedule 3;

**"Early Stage Review Contribution"** means a financial contribution for the provision of off-site Affordable Housing in the Authority's area, the value of which is equivalent to the Affordable Housing Surplus arising from the Early Stage Review;

**"Eligible Purchaser"** means a purchaser or purchasers whose Household Income at the date of purchasing the relevant London Shared Ownership Housing Unit does not exceed the relevant upper limit specified in the latest London Plan Annual Monitoring Report such amount at the date of this Agreement being £90,000;

**"Eligible Renter"** means an existing private or social tenant or tenants without sufficient combined current savings to purchase a home in the local area and whose Household Income at the date of renting the relevant Affordable Housing Unit does not exceed the relevant upper limit specified in the latest London Plan Annual Monitoring Report such amount at the date of this Agreement being £60,000 and who meets the other criteria (if any) specified in the latest London Plan Annual Monitoring Report;

**"Employment and Skills Plan Monitoring Fee"** means the sum of £2,000 per Employment and Skills Plan submitted to the Council pursuant to the provisions of Schedule 12 (capped at £10,000);

**"Employment and Skills Plan"** means a plan detailing the skills and employment development opportunities to be provided as part of the construction of a Phase or Phases within the Development providing a forecast for that Phase or Phases of:

- (a) the estimated full time equivalent workforce;
- (b) the number of vacancies, paid and/or non-paid work placements and short courses that will be created;
- (c) a labour histogram and trade programme for any trades and labour areas that the Owner considers will be challenging to recruit for in the local area;
- (d) together with a method statement setting out how these will be delivered including:



- (i) a named contact responsible for managing recruitment and training;
- (ii) how compliance by trade contractors will be procured and managed;
- (iii) how health and safety issues will be managed; and
- (iv) proposed engagement with the local community and educational engagement with local schools

**"Energy Assessment"** means the Energy Statement in relation to the relevant Phase to be submitted and approved pursuant to Condition 30 of the Planning Permission;

**"Exempted Premises"** means those Dwellings with Returning Residents as identified in the Exempted Premises List. For the avoidance of doubt there shall be a maximum of 9 (nine) Exempted Premises for the whole Development, only one Parking Permit shall be provided per Exempted Premises and all parking spaces for all Exempted Premises shall be provided on the Site (unless otherwise agreed with the Council);

**"Exempted Premises List"** means the list of Exempted Premises as approved in writing by the Planning Obligations Officer in accordance with Paragraph 1.5 of Schedule 5;

**"External Consultant"** means the external consultant(s) appointed by the Council to assess the Development Viability Information;

**"Formula 4"** means the formula identified as "Formula 4" within Appendix 3 to Schedule 3;

**"GLA"** means the Greater London Authority or any successor in statutory function

**"Habitable Room"** means any room within a Dwelling the primary use of which is for living, sleeping and/or dining and which expressly includes any room which is used as a kitchen with a floor area of 13 square metres or more, a living room, a dining room or a bedroom but expressly excludes any room which is used as a kitchen with a floor area of less than 13 square metres, a bathroom, a toilet, a corridor or a hall and **"Habitable Rooms"** shall be construed accordingly;

**"Highway Agreement"** means one or more highway agreements to be entered into by the Owner and the Council under Section 38 and/or Section 278 of the Highways Act 1980 if appropriate and necessary;

**"Highway Works"** means the highway works as shown on the Highways Works Plans to be carried out by the Owner as follows:-

- (a) Delivery of the replacement footway along the west side of Throwley Way adjacent to the Site;
- (b) In relation to Elm Grove,
  - (a) kerblin realignment;
  - (b) carriageway reconstruction and resurfacing where necessary;
  - (c) footway reconstruction and resurfacing where necessary;
  - (d) new road markings, signage and traffic orders as necessary;
  - (e) utility works;
  - (f) drainage works;
  - (g) landscaping works;



- (h) street lighting;
  - (i) adoption of part of 'White Building' site to allow for enlarged turning head; and
  - (j) Elm Grove / High Street connections, including:
    - (i) footpath reconstruction and resurfacing as necessary
    - (ii) improved lighting
- (c) In relation to Throwley Way:
  - (a) removal of existing bus shelter and replacement with carriageway construction or other highway treatment (e.g. footway widening etc) as deemed appropriate;
  - (b) carriageway resurfacing where necessary;
  - (c) removal of existing bus layby and replacement with footway;
  - (d) footway resurfacing where necessary;
  - (e) new road markings, signage and traffic orders as necessary;
  - (f) utility works;
  - (g) drainage works;
  - (h) landscaping works;
  - (i) street lighting; and
  - (j) stopping up of highway necessary to deliver development footprint (via separate process).
- (c) In relation to delivering the bus stop on the opposite side of Throwley Way:
  - (a) removal of trief kerbs and replaced with standard kerbs;
  - (b) removal of guardrailing;
  - (c) regrading of footway;
  - (d) delivery and provision of replacement bus stop, to same specification as existing Throwley Way bus stop as a minimum before the existing bus stop is made inoperable, at the cost of the applicant;
  - (e) details of the replacement bus stop to be approved by TfL;
  - (f) utility works as necessary;
  - (g) street Lighting works as necessary;
  - (h) drainage works as necessary; and
  - (i) new/replacement road markings, signage and traffic orders as necessary,
- (d) and any associated works the Council determines to be necessary in connection with the above;



**"Highways Works Plans"** means the plans attached to this Agreement at Appendix 5 with drawing numbers 22131-MA-XX-DR-C-0102 P02; 22131-MA-XX-DR-C-0350 P02; and 22131-MA-XX-DR-C-0151 P04;

**"Household"** means, in relation to a person "A", A and all other persons who would, after renting an Affordable Housing Unit or Additional Affordable Housing Unit share that unit with A and one another as the residence of both A and such other persons;

**"Household Income"** means:

- (a) in relation to a single Eligible Renter, the gross annual income of that Eligible Renter's Household; and
- (b) in relation to joint Eligible Renters, the combined gross annual incomes of those Eligible Renters' Household;
- (c) in relation to a single Eligible Purchaser the gross annual income of that Eligible Purchaser's Household; and
- (d) in relation to joint Eligible Purchasers the combined gross annual incomes of those Eligible Purchasers' Household

**"Index Linked"** means the increase in proportion to movement in the Index of Retail Prices between 4 September 2024 and the date the relevant Contribution fee or other payment is paid;

**"Index of Retail Prices"** means the all-items retail prices index published from time to time by the Office for National Statistics, or any successor to that index from time to time and in the event that such index ceases to be published and no successor index is introduced the parties (acting reasonably) shall agree an appropriate alternative index;

**"Intention Notice"** means a notice in writing served on the Mortgagee by the Council under paragraph 3.2 of Schedule 2 of the Council's intention to acquire an Option;

**"Interest"** means at the annual rate of 4% above the Bank of England Base Rate;

**"Intermediate Housing"** means London Shared Ownership Housing;

**"Late Stage Review"** means a review of the viability of the Development in accordance with Part 3 of Schedule 3;

**"Late Stage Review Date"** means the date on which 75 (seventy five) per cent of the Dwellings have Practically Completed as determined by the Council pursuant to Schedule 3;

**"Late Stage Review Cap"** means the cap on the Late Stage Review contribution as calculated in accordance with Formula 4;

**"Late Stage Review Contribution"** means a financial contribution for the provision of off-site Affordable Housing in the Authority's area, the value of which is equivalent to the Affordable Housing Surplus arising from the Late Stage Review subject to the Late Stage Review Cap;

**"Legal Interest"** means a legal interest in land that is capable of registration at HM Land Registry;

**"London Affordable Rented Housing"** means rented housing provided by an Affordable Housing Provider that has the same characteristics as Social Rented Housing except that it is not required to be let at Target Rents but is subject to other rent controls that require it to be offered to eligible households on an assured tenancy in accordance with Part VI of the Housing Act 1996 at a rent that is:



- (a) including Service Charges, not more than 80 per cent of the market rent (where the market rent of a tenancy at any time is the rent which the tenancy might reasonably be expected to fetch at that time on the open market); and
- (b) excluding Service Charges, no higher than the relevant benchmark rents published by the GLA annually in accordance with the Mayor's Funding Guidance or, in the event that such benchmark rents are no longer published, such other rental caps as may be agreed between the GLA and the Affordable Housing Provider of the relevant London Affordable Rented Housing Units or of the relevant Additional Affordable Housing Units provided as London Affordable Rented Housing (if any);

**"London Affordable Rented Housing Units"** means the Affordable Housing Units to be made available for London Affordable Rented Housing in accordance with Schedule 2;

**"London Housing Design and Quality Standards"** means the design standards for new homes set out in the London Plan and the London Planning Guidance: Housing Design Standards published by the GLA in June 2023 including any standards replacing or revising this document;

**"London Plan"** means the London Plan published in 2021 as revised from time to time;

**"London Plan Annual Monitoring Report"** means the monitoring report published annually by the Mayor of London reviewing the progress being made in implementing the policies and addressing the objectives of the London Plan or any replacement GLA guidance or policy;

**"London Shared Ownership Housing"** means housing offered to Eligible Purchasers to be occupied:-

- (a) partly for rent and partly by way of owner occupation on shared ownership arrangements as defined in section 70(4) of the Housing and Regeneration Act 2008 (or any amended or replacement provision);
- (b) where the shared ownership lessee for the time being has the right to carry out Staircasing and dispose of the unit on the open market;
- (c) on the basis that average annual housing costs, including Service Charges and mortgage payments (assuming reasonable interest rates and deposit requirements) must not exceed 28 per cent of the relevant annual gross income upper limit (such 28 per cent being equivalent to 40 per cent of net income, with net income being assumed to be 70 per cent of gross income) specified in the London Plan Annual Monitoring Report; and

**"London Shared Ownership Housing Units"** means the Affordable Housing Units to be made available for London Shared Ownership Housing in accordance with Schedule 2;

**"Low Cost Rent Housing"** means London Affordable Rented Housing, Social Rented Housing and Social Rented Replacement Housing;

**"Market Housing Unit"** means any Dwelling which is not an Affordable Housing Unit or Additional Affordable Housing Unit;

**"Market Value"** means the price at which the sale of the relevant Affordable Housing Units and/or Additional Affordable Housing Units would have been completed unconditionally for cash consideration on the Relevant Review Date based on detailed comparable market evidence, including evidence of rental values achieved for any Affordable Housing Units and/or Additional Affordable Housing Units which have been Disposed but not Sold, to be assessed by the Council and assuming:

- (a) a willing seller and a willing buyer;
- (b) that, prior to the date of valuation, there has been a reasonable period of not less than six months for the proper marketing of the interest (having regard to the nature of the property



and the state of the market) for the agreement of the price and terms and for the completion of the sale;

- (c) that no account is taken of any additional bid by a prospective purchaser with a special interest; and
- (d) that both parties to the transaction have acted knowledgeably, prudently and without compulsion;

**"Mayor's Funding Guidance"** means "Homes for Londoners: Affordable Homes Programme 2016-21 Funding Guidance" published by the Mayor of London in November 2016 or any update or replacement guidance;

**"Mid-Stage Review"** means a review of the viability of the Development in accordance with Part 2 of Schedule 3;

**"Mid-Stage Review Contribution"** means a financial contribution for the provision of off-site Affordable Housing in the Authority's area, the value of which is equivalent to the Affordable Housing Surplus arising from the Mid Stage Review;

**"Mid-Stage Review Date"** means the date on which 50 (fifty) per cent of the Dwellings have been Practically Completed as determined by the Council pursuant to Schedule 3;

**"Monitoring"** means a survey of residents being persons making the journey to/from the Development, using a questionnaire in a form supplied or approved by the Council with the object of ascertaining the modes of transport used by such persons (or any alternative method of achieving that object approved in writing by the Council from time to time);

**"Monitoring Fee"** means the sum of £5,000 (FIVE THOUSAND POUNDS) payable to the Council towards monitoring and implementing this Deed;

**"Monitoring Period"** means the period for Monitoring (of not less than 5 years of the relevant Phase) as set out in each approved Travel Plan;

**"Moratorium Period"** means, in each instance where a Mortgagee has served a Default Notice under paragraph 3.1.1 of Schedule 2, the period from (and including) the Date of Deemed Service to (and including) the date falling three months after such Date of Deemed Service (or such longer period as may be agreed between the Mortgagee and the Council);

**"Mortgagee"** means any mortgagee or chargee of an Affordable Housing Provider of the Affordable Housing Units and/or the Additional Affordable Housing Units (or any number of them) and any receiver (including an administrative receiver) and manager appointed by such mortgagee or chargee or any other person appointed under any security documentation to enable such mortgagee or chargee to realise its security or any administrator (howsoever appointed) including a housing administrator;

**"Nominations Agreement"** means the Council's standard form nominations cascade arrangements for units being let as Affordable Housing that provide for 100 per cent of first lets to be provided to nominees of the Council and 75 per cent of all subsequent lets to be provided to nominees of the Council;

**"Occupied"** means occupation for any purpose for which Planning Permission has been granted but not including occupation by personnel engaged in the construction, fitting out or occupation for marketing or display purposes and for security purposes and **Occupation, Occupiers and Occupy** shall be construed accordingly;

**"Option"** means an exclusive option granted by the Mortgagee to the Council (and/or the Council's nominated substitute Affordable Housing Provider) to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units in accordance with Schedule 2 paragraph 3.3;



**"Pedestrian Access"** means the east-west pedestrian access through the Site between the High Street and Throwley Way to be laid out in accordance with the provisions of Schedule 6 to this Deed;

**"Pedestrian Access Plan"** means the plan attached to this Agreement at Appendix 6 labelled Parameter Plan 3 – Access and Movement (ref. 3465B-LB-XX-00-D-A-106200 P05) as consented through the Planning Permission;

**"Pedestrian Safety Improvement Works Contribution"** means the Index Linked sum of one hundred thousand pounds (£100,000) as a contribution to be used by the Council towards future pedestrian safety improvements across Throwley Way;

**"Phase"** means the phases of the Development indicated on the Site Wide Phasing Strategy and **"Phased"** shall be construed accordingly;

**"Parking Permit"** means a resident's parking permit or visitor's parking permit issued by the Council for a Controlled Parking Zone within the Authority's Area and/or a contract to park in any car park owned controlled or licensed by the Council which for the avoidance of doubt does not include a disabled person's badge issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 as amended or a permit held by any owner or occupier of an Exempted Premises;

**"Plan"** means the plan of the Site attached to this Agreement at Appendix 2 with drawing number 3465B-LB-ZZ-D-A-101000, Revision P04;

**"Planning Application"** means the outline planning application (DM2024/00392) (with all matters reserved) for development including demolition of existing buildings and structures within Elm Grove Estate and erection of new buildings to provide residential floorspace (Class C3); retention, refurbishment and rear extension of 216-220 High Street to provide town centre (Class E), community (Class F2), sui generis and residential floorspace (Class C3); new pedestrian and vehicular access; associated amenity space, open space, public realm and landscaping; car and cycle parking spaces; plant; refuse storage; servicing; other works incidental to the proposed (phased) development; and Phase 0 enabling preliminary works in the form of demolition of two existing bungalows on-site;

**"Planning Obligations Team"** means the Council's Planning Obligations Team or such person as the Council designates as undertaking this role;

**"Planning Permission"** means the planning permission that may be granted in pursuance of the Planning Application substantially in the form of the draft permission at Appendix 3;

**"Planning Reference"** means planning reference DM2024/00392;

**"Practical Completion"** means practical completion of the Development in all material respects and the issue of a certificate of practical completion by the Owner's architect or engineer as the case may be and the expressions **"Practically Completed"** and **"Practically Complete"** shall be construed accordingly;

**"Public Realm"** means public open space to be laid out by the Owner on the Public Realm Land in accordance with the provisions of Schedule 6 to this Deed;

**"Public Realm Land"** means the identified as 'public realm' on the Public Realm Plan;

**"Public Realm Plan"** means the plan attached to this Agreement at Appendix 7 labelled Parameter Plan 4 – Hard & Soft Landscape (3465B - LB - XX - 00 - D - A - 106300 rev P04) as consented through the Planning Permission;

**"Public Subsidy"** means funding from the Council and/or the GLA together with any additional public subsidy secured by the Owner to support the delivery of the Development;

**"Regulator of Social Housing"** means the Regulator of Social Housing established under Part 2 of the Housing and Regeneration Act 2008 and responsible for the regulation of private registered providers of social housing in England, or any successor body or organisation;



**"Relevant Disposal"** means any freehold or long leasehold interest in the Site;

**"Relevant Review Date"** means:

- (a) in relation to the Early Stage Review, the date on which the Development Viability Information is submitted pursuant to paragraph 2, Part 1 of Schedule 3;
- (b) in relation to the Mid-Stage Review, the Mid-Stage Review Date; and
- (c) in relation to the Late Stage Review, the Late Stage Review Date;

**"Reportable Unit"** means an individual block or building of five or more flats or a group of five or more houses;

**"Rent Guidance"** means the Guidance on Rents for Social Housing and the Direction on the Rent Standard 2019 issued by the Ministry of Housing, Communities and Local Government in February 2019 or such other replacement guidance or direction or legislation;

**"Rent Standard"** means the standard relating to rent set by the Regulator of Social Housing from time to time having regard to the Welfare Reform and Work Act 2016 and the Rent Guidance together with the Rent Standard Guidance published by the Department for Communities and Local Government in April 2015 or such other replacement guidance or direction or legislation;

**"Reserved Matters Application"** means an application to the Council for a Reserved Matters Approval pursuant to this Planning Permission;

**"Reserved Matters Approval"** means a reserved matters approval of a Reserved Matters Application for the construction of a Phase;

**"Residential Travel Plan"** means a plan to be provided and adopted by the Owner as approved in writing by the Council to include the Monitoring Period and to encourage means of travel to and from the Dwellings other than by the driver only private car;

**"Residential Travel Plan Monitoring Fee"** means the sum of six thousand pounds (£6,000) paid to the Council towards monitoring compliance with the Residential Travel Plan for the avoidance of doubt, if there are more than one Residential Travel Plan, the sum is £6,000 per Residential Travel Plan;

**"Returning Residents"** means those residents who previously lived on the Site prior to Commencement of Development and have a right to return to Occupy a Dwelling upon or following the Commencement of Development of the relevant Phase and were entitled to and held a Parking Permit prior to the Commencement of Development;

**"Sale"** means:

- (a) the sale of the freehold; or
- (b) the grant of a lease with a term of 125 years or more and subject to nominal rent

and **"Sold"** shall be construed accordingly;

**"Section 73 Consent"** means a planning permission granted under section 73 of the Act in respect of the Planning Permission;

**"Second Instalment of the Carbon Offset Contribution"** means the amount which shall be calculated as follows:

$$S = R - F$$



## WHERE

R = the Carbon Offset Contribution Recalculation for the relevant Phase

F = the Carbon Offset Contribution paid in respect of the relevant Phase

S = Second Instalment of the Carbon Offset Contribution

**"Service Charges"** means all amounts payable by a tenant of the relevant London Affordable Rented Housing Unit, London Shared Ownership Housing Unit or Additional Affordable Housing Unit provided as London Affordable Rented Housing, London Shared Ownership Housing or Social Rented Housing (as the context requires) as part of or in addition to the rent and directly or indirectly for services, repairs, maintenance, improvements, insurance and/or the landlord's costs of management in relation to that unit;

**"Site"** means the property known as Elm Grove Estate, 216-220 High Street, Sutton SM1 1NU and shown for identification purposes only edged red on the **Plan**;

**"Site Wide Phasing Strategy"** means the Site Wide Phasing Strategy to be submitted and approved pursuant to Condition 7 of the Planning Permission;

**"Social Rented Housing"** means rented housing owned and managed by local authorities or Affordable Housing Providers and let at Target Rents;

**"Social Rented Housing Units"** means the Affordable Housing Units to be made available for Social Rented Housing in accordance with Schedule 2;

**"Social Rented Replacement Housing"** means rented housing owned and managed by the Council or an Affordable Housing Provider and let at Target Rents which accommodates Social Rented Housing at the Site that exists at the date of this Agreement;

**"Social Rented Replacement Housing Units"** means the Affordable Housing Units to be made available for Social Rented Replacement Housing in accordance with Schedule 2;

**"Specified Date"** means the date upon which an obligation arising under this Agreement is due to be performed;

**"Staircasing"** means the acquisition by a purchaser of a London Shared Ownership Unit of additional equity in a unit of London Shared Ownership Housing up to a maximum of 100% equity and **"Staircased"** shall be construed accordingly

**"Substantial Implementation"** means the occurrence of all of the following in respect of the Development:

- (a) completion of all ground preparation works;
- (b) the foundations for the core of the development; and
- (c) construction of the ground floor

in respect of Development Plots A or B as shown in Parameter Plan 1 – Development Plots (drawing ref. 3465B - LB - XX - ZZ - D - A – 106000 rev P04);

**"Substantial Implementation Review Date"** means the date falling 36 months from but excluding the date of grant of the Planning Permission;

**"Supporting Evidence"** means a list of Returning Residents and evidence proving the Returning Residents' right to return to Occupy a Dwelling upon or following the Commencement of Development



of the relevant Phase and evidence that the Returning Resident was entitled to and held a Parking Permit prior to the Commencement of Development;

**"Surplus"** means, in relation to each Updated Viability Appraisal, the amount in pounds sterling that the Residual Land Value exceeds the Benchmark Land Value;

**"Target Rents"** means rents for Social Rented Housing conforming with the pattern produced by the rents formula set out in the Rent Guidance and subject to the limit on rent changes and rent caps set out therein and subject to indexation as permitted by the Rent Standard or Rent Guidance from time to time;

**"Target Return"** means a return on gross development value of 17.5% on private gross development value, 6.0% on affordable housing gross development value and 15.0% on non-residential gross development value together being the blended target return for the Development;

**"Temporary Pedestrian Access"** means a temporary east-west pedestrian access route through the Site between the High Street and Throwley Way to be laid out in accordance with the provisions of Schedule 6 to this Deed;

**"TfL"** means the strategic transport and highway authority for the area within the Site is located;

**"Targets"** means targets for achieving a decrease in the proportion of persons travelling to and from the Dwellings or Commercial Units (as the case may be) by driver only private car to using more sustainable modes of transport (where walking, cycling or the use of public transport are more sustainable than using a car) which shall be submitted to and approved by the Council for the Dwellings;

**"Updated Viability Appraisal"** means, as part of each Viability Review, an updated assessment of viability which must meet the requirements in Appendix 1 to Schedule 3;

**"VAT"** means value added tax chargeable under the Value Added Tax Act 1994 and any similar replacement tax and any similar additional tax;

**"Viability Review"** means the Early Stage Review, the Mid-Stage Reviews or the Late Stage Review, as the context requires; and

**"Working Day"** means any day except Saturday, Sunday and any bank or public holiday and **Working Days** shall be construed accordingly.

1.2 In this Agreement:

1.2.1 the clause headings do not affect its interpretation;

1.2.2 unless the context otherwise requires, words denoting the singular shall include the plural and vice versa and words denoting any one gender shall include all genders and words denoting persons shall include bodies corporate, unincorporated associations and partnerships;

1.2.3 a reference to any party shall include that party's personal representatives, successors and permitted assigns and in the case of the Council the successors to its respective statutory functions;

1.2.4 unless the context otherwise requires, a reference to a statute or statutory provision is a reference to it as amended, extended or re-enacted from time to time;

1.2.5 the headings in this Agreement are inserted for convenience only and shall not affect the construction or interpretation of this Agreement;



- 1.2.6 unless otherwise indicated, references to clauses and Schedules are to clauses of and Schedules to this Agreement and references in a Schedule to a Part or paragraph are to a Part or paragraph of that Schedule;
- 1.2.7 where the agreement, approval, consent or an expression of satisfaction is required by the Owner under the terms of this Agreement from the Council that agreement, approval, consent or satisfaction shall be given in writing and shall not be unreasonably withheld or delayed;
- 1.2.8 references to any statute or statutory provision include references to:
- (a) all Acts of Parliament and all other legislation having legal effect in the United Kingdom as directly or indirectly amended, consolidated, extended, replaced or re-enacted by subsequent legislation; and
  - (b) any orders, regulations, instruments or other subordinate legislation made under that statute or statutory provision;
- 1.2.9 references to the Site include any part of it;
- 1.2.10 references to any party in this Agreement include the successors in title of that party and any person deriving title through or under that party. In addition, references to the Council include any successor local planning authority exercising planning powers under the 1990 Act or any successor local highway authority exercising powers under the 1980 Act;
- 1.2.11 "including" means "including, without limitation";
- 1.2.12 any covenant by the Owner not to do any act or thing includes a covenant not to permit or allow the doing of that act or thing;
- 1.2.13 without prejudice to the terms of any other provision contained in this Agreement the Owner shall pay all costs, charges and expenses (including without prejudice to legal costs and Surveyor's fees) reasonably incurred by the Council for the purpose of or incidental to the enforcement of any right or power of the Council or any obligation of the Owner arising under this Agreement;
- 1.2.14 where two or more people form a party to this Agreement, the obligations they undertake may be enforced against them jointly or against each of them individually; and
- 1.2.15 if any provision is held to be illegal, invalid or unenforceable, the legality, validity and enforceability of the remainder of the Agreement is to be unaffected.

## **2 LEGAL BASIS**

- 2.1 This Agreement is made pursuant to section 106 of the 1990 Act. To the extent that they fall within the terms of section 106 of the 1990 Act, the obligations contained in this Agreement are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council as local planning authority against the Owner without limit of time.
- 2.2 To the extent that any of the obligations contained in this Agreement are not planning obligations within the meaning of the 1990 Act, they are entered into pursuant to the powers contained in section 111 of the Local Government Act 1972, section 16 of the Greater London Council (General Powers) Act 1974, section 2 of the Local Government Act 2000, section 1 of the Localism Act 2011 and all other enabling powers with the intent that it will bind the Owner and their successors in title to the Bound Land.
- 2.3 The Council is entitled to enforce the covenants and obligations contained in this Deed as a local planning authority.



2.4 The planning obligations in this Deed are for the purposes of Regulation 122 of the Community Infrastructure Regulations 2010: -

- 1.1.1 necessary to make the Development acceptable in planning terms;
- 1.1.2 directly related to the Development; and
- 1.1.3 fairly and reasonably related in scale and kind to the Development.

### **3 CONDITIONALITY**

3.1 The obligations contained in the schedules to this Agreement are subject to and conditional upon:

- 3.1.1 the grant of the Planning Permission; and
- 3.1.2 Commencement of the Development SAVE FOR the prior to Commencement obligations contained in the following Schedules which take effect on grant of Planning Permission only:-
  - (a) Schedule 4 – paragraphs 1, 2.1 and 2.2;
  - (b) Schedule 8 – paragraphs 1.1 and 1.2;
  - (c) Schedule 9 – paragraphs 1.1, 1.2, 1.3 and 2.1.1; and
  - (d) Schedule 11 – paragraphs 1.1.

3.2 All other parts of this Agreement shall be of immediate force and effect unless otherwise stated.

### **4 MISCELLANEOUS**

- 4.1 Nothing contained or implied in this Agreement shall prejudice or affect the rights, powers, duties and obligations of the Council in exercise of its functions as local planning authority and its rights, powers, duties and obligations under all public and private statutes, bylaws and regulations may be as fully and effectually exercised as if the Council were not a party to this Agreement.
- 4.2 Nothing in this Agreement prohibits or limits the right to develop any part of the Site in accordance with a planning permission, other than one relating to the Development as specified in the Planning Application, granted after the date of this Agreement, whether or not pursuant to an appeal.
- 4.3 No waiver (whether express or implied) by the Council of any breach or default by the Owner in performing or observing any of the covenants undertakings obligations or restrictions contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Council from enforcing any of the said covenants undertaking or obligation from acting upon any subsequent breach or default in respect of the Owner.
- 4.4 Nothing in this Agreement shall be construed as a grant of planning permission.
- 4.5 Unless expressly agreed otherwise in this Agreement, the covenants in this Agreement shall be enforceable without any limit of time against the Owner and any successors in title to the Bound Land and assigns of the Owner in an interest or estate to the Bound Land or any part or parts of the Bound Land as if that person had also been an original covenanting party in respect of the interest or estate for the time being held by that person.
- 4.6 No party to this Agreement nor its successors in title nor any person deriving title from or under them shall be liable for any breach of any of the planning obligations or other obligations contained in this Agreement after it shall have parted with its entire interest in the Site but without prejudice to liability for any subsisting breach arising prior to parting with such interest.



- 4.7 This Agreement shall cease to have effect (insofar only as it has not already been complied with) if the Planning Permission is quashed or revoked or otherwise withdrawn or (without the consent of the Owner or their successors in title) is modified by any statutory procedure or expires prior to Commencement of Development.
- 4.8 This Agreement shall not be enforceable against:
- 4.8.1 an individual owner occupier of the Development or their mortgagee or chargee, save for:-
- (a) paragraph 2.3.3 of Schedule 2 which shall be enforceable against an individual owner occupier of an Affordable Housing Unit(s) or their mortgagee or chargee subject to paragraphs 2.7 and 3 of Schedule 2; and
  - (b) paragraph 1.1 of Schedule 5 which shall be enforceable against an individual owner occupier of a Dwelling or their mortgagee or chargee;
- 4.8.2 any statutory undertaker who acquires any part of the Site or an interest therein solely for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services or other utility services within or from the Site and for no other purpose; or
- 4.8.3 any mortgagee or chargee with an interest in the Site from time to time unless and until it becomes a mortgagee or chargee in possession of any part of the Site in which case it shall be liable as if it was a person deriving title from the Owner until such time as it parts with its interest in the Site or the relevant part(s) thereof.
- 4.9 Insofar as any clause or clauses of this Agreement are found (for whatever reason) to be invalid illegal or unenforceable then such invalidity illegality or unenforceability shall not affect the validity or enforceability of the remaining provisions of this Agreement.
- 4.10 In the event that the planning obligations contained in this Agreement being modified a note or memorandum thereof shall be endorsed upon this Agreement.
- 4.11 The Agreement cannot be amended or discharged without the prior consent in writing of the Owner and the Council or their respective successors in title.

## **5 THE OWNER'S PLANNING OBLIGATIONS**

- 5.1 The Owner with intent to bind the Bound Land into whosoever hands the same may fall whether wholly or partly hereby covenants with the Council that it shall:
- 5.1.1 perform and observe the obligations, covenants and undertakings on the part of the Owner contained in this Deed;
- 5.1.2 not encumber or otherwise deal with the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Deed are rendered impossible to carry out;
- 5.1.3 if it acquires a Legal Interest in the Site which is not at the date of this Deed bound by the obligations, covenants and undertakings on the part of the Owner contained in this Deed, enter into the Confirmatory Deed for the purposes of ensuring that the relevant obligations, covenants and undertakings contained in this Deed shall be binding on any such part of the Site.
- 5.2 The parties agree to enter into such deeds as contemplated by Clause 5.1.3 as soon as reasonably practicable and as shall be necessary to give effect to that Clause.

## **6 COSTS**



- 6.1 The Owner hereby covenants with the Council that on completion of this Agreement it will pay the Council's reasonable and proper legal costs, together with all disbursements, incurred in connection with the negotiation, preparation, completion and registration of this Agreement.

- 6.2 Prior to Commencement of Development the Owner will pay to the Council the Monitoring Fee.

## **7 REGISTRATION OF AGREEMENT**

The Owner recognises and agrees that the covenants in this Agreement shall be treated and registered as local land charges for the purposes of the Local Land Charges Act 1975.

## **8 RIGHT OF ACCESS**

- 8.1 Without prejudice to the Council's statutory right of entry the Owner shall permit the Council and its authorised employees and agents upon reasonable written notice to enter the Site at all reasonable times for the purpose of verifying whether or not any obligation arising under the Agreement has been performed or observed.

## **9 DISPUTE RESOLUTION**

- 9.1 In the event that there shall be any dispute between the parties to this Deed in respect of any matter arising under the terms of this Deed and which dispute the parties are unable to resolve any of the parties may refer the matter to an expert (being a person as described below) for determination.
- 9.2 The expert shall be a person with knowledge and expertise in the subject matter of the dispute and in the event that the parties cannot agree the identity of the person to be appointed as expert pursuant to this clause 9 within fifteen (15) Working Days of one party's notification to the other party of that party's decision to refer the matter to an expert, either party may seek nomination of an expert by the president for the time being of the appropriate professional body (whose nomination shall be binding on the parties).
- 9.3 The costs of the expert shall be in the award of the expert and if not provided for by the expert shall be split equally between the parties to the dispute.
- 9.4 The expert shall (save with the written agreement of both parties) be restricted to settling disputes.
- 9.5 The expert shall act as an expert and not as an arbitrator.
- 9.6 The decision of the expert (other than in the case of manifest, material error or fraud) shall be binding on the parties.
- 9.7 The procedure for a reference to the expert shall be determined by the expert, but in any event it shall allow for the parties to make written representations to the expert, and for the parties to be able to comment on each other's representations.
- 9.8 The expert is to use all reasonable endeavours to publish his decision within 30 Working Days of his appointment.
- 9.9 The provisions of this clause 9 do not apply in the case of any dispute or difference arising in connection with any matter covered by this Deed to the extent that the same is a dispute or difference as to a matter of law or concerning the interpretation of this Deed.
- 9.10 Nothing in this clause 9 shall be construed as removing the jurisdiction of the courts to enforce the provisions of this Deed.

## **10 THIRD PARTIES**

A person who is not named in this Agreement does not have any right to enforce any term of this Agreement under the Contracts (Rights of Third Parties) Act 1999.



## **11 NOTICES**

- 11.1 All notices served under or in connection with this Agreement shall be deemed to have been properly served if sent by recorded delivery to the principal address or registered office (as appropriate) of the relevant party;
- 11.2 Any notice to be served under or in connection with this Agreement shall be sent to the relevant address referred to above or such other address as may be notified in writing to the other party.

## **12 CHANGE IN OWNERSHIP**

The Owner agrees to provide the Council with immediate written notification of any change in Ownership of any of its interest in the Site occurring before all of the obligations under this Agreement have been discharged (such notice to give details of the transferee's full name and registered office) together with the area of the Site or unit of occupation purchased by reference to a plan and the Planning Reference.

## **13 CONTRIBUTIONS**

- 13.1 Where any sum is paid for a particular purpose in accordance with this Agreement the Council shall not use the payment otherwise than for that purpose or for such other purpose as the Owner (at its absolute discretion) and the Council may agree in writing.
- 13.2 In the event that the Contributions or any element or part of the Contributions remain unspent or committed unconditionally to be spent within ten (10) years after the date on which the relevant Contribution was paid to the Council, then the Council shall within 28 days of a written demand return to the Owner the unexpended or uncommitted (as the case may be) part of the Contributions (with any accrued interest).

## **14 INDEXATION**

The Owner agrees with the Council that any sums payable by the Owner under this Agreement shall be Index Linked.

## **15 INTEREST**

All costs, payments and expenses payable to the Council under this Agreement shall bear the Interest rate from time to time being charged from the date such payment is due until the payment is received by the Council.

## **16 VAT**

- 16.1 All consideration given in accordance with the terms of this Agreement shall be exclusive of any VAT properly payable.
- 16.2 The Owner hereby acknowledges and agrees that if at any time VAT is required to be paid in respect of the Land and any costs, payments and expenses payable to the Council under this Agreement then to the extent that VAT had not been previously charged in respect of that payment the Council shall have the right to issue a VAT invoice to the Owner and the VAT shall be paid accordingly.

## **17 FUTURE SECTION 73 CONSENTS**

- 17.1 Subject to Clauses 17.2 to 17.4 below, if any Section 73 Consent is granted after the date of this Deed:
- 17.1.1 the obligations in this Deed shall relate to and bind such Section 73 Consent; and
- 17.1.2 the definitions of Planning Application, Development and Planning Permission shall be construed to include reference to (respectively) the planning application for the Section 73



Consent, the development permitted by the Section 73 Consent, and the Section 73 Consent itself;

- 17.2 Nothing in this clause shall fetter the discretion of the Council in determining any planning application for a Section 73 Consent and the appropriate planning obligations required in connection with the determination of the same.
- 17.3 The provisions of this Clause 17 shall not apply to any Section 73 Consent which necessitates or requires amendments to the substantive terms or obligations of or contained within this Deed.
- 17.4 The Council reserves the right to insist upon the completion of a separate planning obligation by deed of agreement or deed of variation to this Deed prior to the grant of any Section 73 Consent.

**18 WARRANTY**

The Owner hereby warrants that the title details recited herein are full and accurate and that no other party (other than the Council in its capacity as landowner) has a Legal Interest in the Site.

**19 [MORTGAGEE'S CONSENT]**

The Mortgagee(s) acknowledge and declare that this Deed has been entered into by the Owner(s) with their consent and that the Site shall be bound by the obligations contained in this Deed and that the security of the mortgage over the Bound Land shall take effect subject to this Deed PROVIDED THAT the Mortgagee(s) shall otherwise have no liability under this Deed unless they take possession of the Site (or part) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner(s)]

**20 JURISDICTION**

This Agreement is governed by and interpreted in accordance with the law of England and Wales.

This document has been executed as a Deed and is delivered and takes effect on the date stated at the beginning of it.



## SCHEDULE 2 – AFFORDABLE HOUSING

### 1 AFFORDABLE HOUSING MINIMUM PROVISION

- 1.1 The Owner shall provide the Affordable Housing Units in accordance with the following “**Affordable Housing Target Tenure Split**” unless otherwise approved by the Council in writing:

<b>Affordable Housing Target Tenure Split</b>				
	<b>1 bedroom units</b>	<b>2 bedroom units</b>	<b>3 bedroom units</b>	<b>TOTAL</b>
<b>Social Rented Replacement Housing</b>	36 (number) 72 Habitable Rooms	10 (number) 36 Habitable Rooms	11 (number) 55 Habitable Rooms	57 (number) 163 Habitable Rooms
<b>London Affordable Rented Housing or Social Rented Housing</b>	19 (number) 38 Habitable Rooms	42 (number) 129 Habitable Rooms	12 (number) 60 Habitable Rooms	73 (number) 227 Habitable Rooms
<b>London Shared Ownership Housing</b>	5 (number) 10 Habitable Rooms	5 (number) 15 Habitable Rooms	0 (number) 0 Habitable Rooms	10 (number) 25 Habitable Rooms
<b>TOTAL</b>	60 (number) 120 Habitable Rooms	57 (number) 180 Habitable Rooms	23 (number) 115 Habitable Rooms	140 (number) 415 Habitable Rooms

- 1.2 The Owner covenants with the Council that not less than 50% of the Habitable Rooms permitted by the Planning Permission shall be constructed as Affordable Housing Units and shall not be Occupied otherwise than as Affordable Housing.

### 2 PROVISION OF AFFORDABLE HOUSING

- 2.1 The Owner hereby covenants with the Council:

#### 2.2 Outline Phases

- 2.2.1 as part of the Reserved Matters Application for each Phase to submit details of the location, sizes and tenures of the Affordable Housing Units in that Phase SAVE in relation to the Phase including the 141st Dwelling whereby those details shall be submitted together with any Additional Affordable Housing Statement for that Phase or a later Phase;
- 2.2.2 not to Commence each Phase until details of the location, sizes and tenures of the Affordable Housing Units in that Phase have been approved by the Council;
- 2.2.3 to construct and complete the Affordable Housing Units in each Phase and any Additional Affordable Housing Units in accordance with the Planning Permission;
- 2.2.4 to construct and complete the Affordable Housing Units in each Phase in accordance with the details approved pursuant to paragraph 2.2.1;



- 2.2.5 not to first Occupy or permit or suffer Occupation of more than 50 per cent of the Market Housing Units in each Phase until:-
- (a) all of the Affordable Housing Units in that Phase have been completed and are ready and available for Occupation as Affordable Housing; and
  - (b) where the Affordable Housing Provider is not the Council a contract has been entered into with an Affordable Housing Provider for the transfer of the freehold or leasehold interest of the Affordable Housing Units in that Phase with the freehold interest or a minimum 125 year leasehold interest being on a full repairing and insuring basis free from all encumbrances (other than those on the title of the Site at the date of this Deed) for such Affordable Housing Units, together with all necessary rights to services and access to enable such Affordable Housing Units to be Occupied.
- 2.3 The Owner hereby covenants with the Council:
- 2.3.1 to ensure that all of the Affordable Housing Units and any Additional Affordable Housing Units are designed and built to meet the relevant London Housing Design and Quality Standards and Building Regulations to the extent compatible with the Planning Permission;
  - 2.3.2 to procure that the Affordable Housing Provider (save where the Council in its capacity as local housing authority is the Affordable Housing Provider) shall enter into a Nominations Agreement in respect of the London Affordable Rented Housing Units and that a London Affordable Rented Housing Unit shall not be Occupied until a Nominations Agreement has been entered into in respect of that London Affordable Rented Housing Unit;
  - 2.3.3 not to Occupy or permit the Occupation of the Affordable Housing Units and any Additional Affordable Housing Units for any purpose other than for Affordable Housing;
  - 2.3.4 to provide the London Affordable Rented Housing Units as London Affordable Rented Housing in accordance with the Affordable Housing Target Tenure Split and not to Occupy these units to be provided as London Affordable Rented Housing other than as London Affordable Rented Housing for the life of the Development;
  - 2.3.5 to provide the London Shared Ownership Housing Units as London Shared Ownership Housing in accordance with the Affordable Housing Target Tenure Split and not to Occupy these units other than as London Shared Ownership Housing for the life of the Development;
  - 2.3.6 that the London Shared Ownership Housing Units shall not be sold to any purchaser other than an Eligible Purchaser, except where Staircasing applies and where the lessee of the relevant London Shared Ownership Housing Unit has Staircased to 100% equity;
  - 2.3.7 to provide the Social Rented Housing Units as Social Rented Housing in accordance with the Affordable Housing Target Tenure Split and not to Occupy these units other than as Social Rented Housing for the life of the Development; and
  - 2.3.8 to provide the Social Rented Replacement Housing Units as Social Rented Replacement Housing in accordance with the Affordable Housing Target Tenure Split and not to Occupy these units other than as Social Rented Housing for the life of the Development.
- 2.4 The Owner covenants that the Disposal of any part of the Site to an Affordable Housing Provider shall be subject to a condition that the Affordable Housing Provider enters into such legal agreements as are reasonably required by the Council relating to the nomination of tenants, owners and/or occupiers for the Affordable Housing Units.
- 2.5 The Owner or the Affordable Housing Provider where relevant shall pay the Council's reasonable and proper costs in dealing with any notices, enquiries or further agreements relating to this Schedule 2.



2.6 The Owner covenants with the Council:

- 2.6.1 as part of Reserved Matters Application for each of Phase to submit a statement setting out the mix of the tenures of the Dwellings in the previous Phases and an updated indicative mix of the tenures of the Dwellings in future Phases demonstrating how the latest Affordable Housing Enhanced Minimum approved by the Council and the Additional Affordable Housing Target Tenure Split will be delivered; and
- 2.6.2 to ensure that no Reserved Matters Applications will prejudice the ability of the Owner to comply with the latest Affordable Housing Enhanced Minimum approved by the Council and the Additional Affordable Housing Target Tenure Split.

2.7 The obligations, restrictions and covenants contained in this Schedule 2 shall not be binding on and shall cease to apply to:

- 2.7.1 any Occupier of any Affordable Housing Unit or Additional Affordable Housing Unit who has exercised a statutory right to acquire the whole of the freehold or of a leasehold estate of that Affordable Housing Unit or Additional Affordable Housing Unit under section 180 of the Housing and Regeneration Act 2008 or any other statutory right in force from time to time entitling tenants of an Affordable Housing Provider to purchase their homes and that Affordable Housing Unit or Additional Affordable Housing Unit shall thereafter be free of the obligations, restrictions and covenants contained in this Schedule 2;
- 2.7.2 any lessee Staircasing to 100% pursuant to a London Shared Ownership Lease or their mortgagee or chargee where such mortgagee or chargee has Staircased to 100% of the equity of such London Shared Ownership Unit and any person deriving title through or under such lessee any successor in title thereto and their respective mortgagees or chargees; and
- 2.7.3 any Mortgagee from time to time who seeks to dispose of any Affordable Housing Unit or Additional Affordable Housing Unit pursuant to its power of sale exercised pursuant to default of the terms of its Charge (and any successors in title thereto or persons deriving title under such Mortgagee) and who has first complied with the provisions of paragraph 3 below.

2.8 The Owner covenants that prior to Practical Completion of the Affordable Housing Units:

- 2.8.1 all public highways (if any) and public sewerage and drainage serving the Affordable Housing Units shall be in place and shall meet all statutory requirements for such public sewerage and drainage;
- 2.8.2 all private roads footways and footpaths (if any) serving the Affordable Housing Units shall be in place and shall be constructed and completed; and
- 2.8.3 all private sewage and drainage pipes channels and gutters and all mains water gas (if applicable) and electricity pipes and cables serving the Affordable Housing Units shall be in place and shall be constructed laid and completed.

**3 MORTGAGEE IN POSSESSION**

3.1 In order to benefit from the protection granted by paragraph 2.7.3, a Mortgagee must:

- 3.1.1 serve a Default Notice on the Council by delivery by hand to the Council's offices at Civic Offices, St Nicholas Way, Sutton SM1 1EA between the hours of 09.00 and 17.00 or using first class registered post to the Council's offices at Civic Offices, St Nicholas Way, Sutton SM1 1EA in either case addressed to the Head of Planning and Head of Legal Services of the Council prior to seeking to dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units;



- 3.1.2 when serving the Default Notice, provide to the Council official copies of the title registers for the relevant Affordable Housing Units and/or Additional Affordable Housing Units; and
- 3.1.3 subject to paragraph 3.6 below, not exercise its power of sale over or otherwise dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units before the expiry of the Moratorium Period except in accordance with paragraph 3.3 below.
- 3.2 From the first day of the Moratorium Period to (but excluding) the date falling one calendar month later, the Council may serve an Intention Notice on the Mortgagee.
- 3.3 Not later than 15 Working Days after service of the Intention Notice (or such later date during the Moratorium Period as may be agreed in writing between the Council and the Mortgagee), the Mortgagee will grant the Council (and/or the Council's nominated substitute Affordable Housing Provider) an Option to purchase the relevant Affordable Housing Units and/or Additional Affordable Housing Units which shall contain the following terms:
  - 3.3.1 the sale and purchase will be governed by the Standard Commercial Property Conditions (Third Edition – 2018 Revision) (with any variations that may be agreed between the parties to the Option (acting reasonably));
  - 3.3.2 the price for the sale and purchase will be agreed in accordance with paragraph 3.4.2 below or determined in accordance with paragraph 3.5 below;
  - 3.3.3 provided that the purchase price has been agreed in accordance with paragraph 3.4.2 below or determined in accordance with paragraph 3.5 below, but subject to paragraph 3.3.4 below, the Council (or its nominated substitute Affordable Housing Provider) may (but is not obliged to) exercise the Option and complete the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units at any time prior to the expiry of the Moratorium Period;
  - 3.3.4 the Option will expire upon the earlier of (i) notification in writing by the Council (or its nominated substitute Affordable Housing Provider) that it no longer intends to exercise the Option and (ii) the expiry of the Moratorium Period; and
  - 3.3.5 any other terms agreed between the parties to the Option (acting reasonably).
- 3.4 Following the service of the Intention Notice:
  - 3.4.1 the Mortgagee shall use reasonable endeavours to reply to enquiries raised by the Council (or its nominated substitute Affordable Housing Provider) in relation to the Affordable Housing Units and/or the Additional Affordable Housing Units as expeditiously as possible having regard to the length of the Moratorium Period; and
  - 3.4.2 the Council (or its nominated substitute Affordable Housing Provider) and the Mortgagee shall use reasonable endeavours to agree the purchase price for the relevant Affordable Housing Units and/or Additional Affordable Housing Units, which shall be the higher of:
    - (a) the price reasonably obtainable in the circumstances having regard to the restrictions as to the use of the relevant Affordable Housing Units and/or Additional Affordable Housing Units contained in this Deed; and
    - (b) (unless otherwise agreed in writing between the Council (or its nominated substitute Affordable Housing Provider) and the Mortgagee) sums due to a Mortgagee of the Affordable Housing Units and/or the Additional Affordable Housing Units pursuant to the terms of its Charge including (without limitation) all interest and reasonable legal and administrative fees costs and expenses.
- 3.5 On the date falling 10 Working Days after service of the Intention Notice, if the Council (or its nominated substitute Affordable Housing Provider) and the Mortgagee have not agreed the price pursuant to paragraph 3.4.2(a) above:



- 3.5.1 the Council (or its nominated substitute Affordable Housing Provider) and the Mortgagee shall use reasonable endeavours to agree the identity of an independent surveyor having at least 10 years' experience in the valuation of affordable/social housing within the London area to determine the dispute and, if the identity is agreed, shall appoint such independent surveyor to determine the dispute;
  - 3.5.2 if, on the date falling 15 Working Days after service of the Intention Notice, the Council (or its nominated substitute Affordable Housing Provider) and the Mortgagee have not been able to agree the identity of an independent surveyor, either party may apply to the President for the time being of the Royal Institute of Chartered Surveyors or his deputy to appoint an independent surveyor having at least 10 years' experience in the valuation of affordable/social housing within the London area to determine the dispute;
  - 3.5.3 the independent surveyor shall determine the price reasonably obtainable referred to at paragraph 3.4.2 above, due regard being had to all the restrictions imposed upon the relevant Affordable Housing Units and/or Additional Affordable Housing Units by this Deed;
  - 3.5.4 the independent surveyor shall act as an expert and not as an arbitrator;
  - 3.5.5 the fees and expenses of the independent surveyor are to be borne equally by the parties;
  - 3.5.6 the independent surveyor shall make his/her decision and notify the Council, the Council's nominated substitute Affordable Housing Provider (if any) and the Mortgagee of that decision no later than 14 days after his/her appointment and in any event within the Moratorium Period; and
  - 3.5.7 the independent surveyor's decision will be final and binding (save in the case of manifest error or fraud).
- 3.6 The Mortgagee may dispose of the relevant Affordable Housing Units and/or Additional Affordable Housing Units free from the obligations and restrictions contained in paragraphs 1 and 2 of this Schedule which shall determine absolutely in respect of those Affordable Housing Units and/or Additional Affordable Housing Units (but subject to any existing tenancies) if:
- 3.6.1 the Council has not served an Intention Notice before the date falling one calendar month after the first day of the Moratorium Period;
  - 3.6.2 the Council (or its nominated substitute Affordable Housing Provider) has not exercised the Option and completed the purchase of the relevant Affordable Housing Units and/or Additional Affordable Housing Units on or before the date on which the Moratorium Period expires; or
  - 3.6.3 the Council (or its nominated substitute Affordable Housing Provider) has notified the Mortgagee in writing pursuant to the Option that it no longer intends to exercise the Option.
- 3.7 The Council (and its nominated substitute Affordable Housing Provider, if any) and the Mortgagee shall act reasonably in fulfilling their respective obligations under paragraphs 3.1 to 3.6 above (inclusive).

#### **4 PUBLIC SUBSIDY**

- 4.1 Nothing in this Deed shall prejudice any contractual obligation on the Owner to repay or reimburse any Public Subsidy using any surplus profit that is to be retained by the Developer following a Viability Review.
- 4.2 Any Public Subsidy provided will be used in its entirety to support the delivery of additional Affordable Housing in the Authority's Area.



### **SCHEDULE 3 VIABILITY REVIEWS**

#### **Part 1: Early Stage Review**

#### **1 EARLY STAGE REVIEW TRIGGER**

- 1.1 The Owner shall inform the Council in writing of the date on which it considers that Substantial Implementation has been achieved no later than 10 Working Days after such date and such notice shall be accompanied by full documentary evidence on an open book basis to enable the Council to independently assess whether Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Review Date.
- 1.2 No later than five Working Days after receiving a written request from the Council, the Owner shall provide to the Council any additional documentary evidence reasonably requested by the Council to enable the Council to determine whether Substantial Implementation has been achieved on or before the Substantial Implementation Review Date.
- 1.3 Following the Owner's notification pursuant to paragraph 1.1, the Owner shall afford the Council access to the Site to inspect and assess whether or not the works which have been undertaken achieve Substantial Implementation PROVIDED ALWAYS THAT the Council shall:
  - 1.3.1 provide the Owner with reasonable written notice of its intention to carry out such an inspection;
  - 1.3.2 comply with relevant health and safety legislation; and
  - 1.3.3 at all times be accompanied by the Owner or its agent.
- 1.4 No later than 20 Working Days after the Council receives
  - 1.4.1 notice pursuant to paragraph 1.1; or
  - 1.4.2 if the Council makes a request under paragraph 1.2 for additional documentary evidence,the Council shall inspect the Site and thereafter provide written confirmation to the Owner within 10 Working Days of the inspection date as to whether or not the Council considers that Substantial Implementation has been achieved and whether it was achieved on or before the Substantial Implementation Review Date and any dispute arising between the parties as to whether Substantial Implementation has been achieved shall be resolved pursuant to dispute resolution in accordance with the provisions of clause 9 of this Deed.
- 1.5 If the Council notifies the Owner that the Council considers that Substantial Implementation has not been achieved or it is determined pursuant to dispute resolution in accordance with clause 9 that Substantial Implementation has not been achieved then paragraphs 1.1 to 1.6 (inclusive) shall continue to apply mutatis mutandis until the Council has notified the Owner pursuant to paragraph 1.4 that Substantial Implementation has been achieved or it is determined pursuant to dispute resolution in accordance with clause 9 that Substantial Implementation has been achieved.
- 1.6 The Owner shall not Occupy the Development or any part thereof until:
  - 1.6.1 the Council has notified the Owner pursuant to paragraph 1.4 that Substantial Implementation has been achieved on or before the Substantial Implementation Review Date; or
  - 1.6.2 if the Council has confirmed in writing pursuant to paragraph 3.6 that a Surplus has arisen, that the Council has confirmed pursuant to paragraph 3.8 its approval of an Additional Affordable Housing Statement.



## **2 SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION**

- 2.1 Where Substantial Implementation has not occurred before the Substantial Implementation Review Date (as determined by the Council under paragraph 1.4 or in accordance with the dispute resolution provisions of clause 9 of this Deed) the Owner shall submit to the Council the Development Viability Information no later than 20 Working Days after the date on which the Owner is notified pursuant to paragraph 1.4 that Substantial Implementation has not been achieved, on the basis that the Council may make such information publicly available; and
- 2.2 paragraph 3 shall apply.

## **3 ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION**

- 3.1 The Council shall assess the Development Viability Information and assess whether in its view:-
- 3.1.1 a Surplus has arisen; and
  - 3.1.2 the Development Viability Information is approved; and
- for the avoidance of doubt the Council (acting reasonably) will be entitled to rely on its own evidence subject to such evidence also being provided to the Owner.
- 3.2 The Council may appoint an External Consultant to assess the Development Viability Information PROVIDED THAT:
- 3.2.1 the External Consultant(s) must be appointed not later than 10 Working Days after submission of the Development Viability Information; and
  - 3.2.2 any External Consultant(s) so appointed will report to the Council:
    - (a) not later than 20 Working Days after the date of receipt by the External Consultant(s) of the Development Viability Information, if no request is made under paragraph 3.3 below; or
    - (b) not later than 20 Working Days after the date of receipt by the External Consultant(s) of the information submitted pursuant to paragraph 3.4 below, if a request is made under paragraph 3.3 below.
- 3.3 Not later than 20 Working Days after submission of the information under paragraph 2.1 above, the Council and/or an External Consultant may request in writing from the Owner further information or supporting evidence for the relevant Development Viability Information.
- 3.4 The Owner shall provide any reasonably required information to, the Council or the External Consultant(s) (as applicable and with copies to the other parties) within 10 Working Days of receiving a request under paragraph 3.3 above.
- 3.5 The process in paragraphs 3.3 and 3.4 may be repeated until the Council and/or the External Consultant(s) (as applicable) has all the information it reasonably requires to assess whether in their view a Surplus has arisen, with the periods in 3.2.2(b), 3.3, 3.4 and 3.6.2 restarting accordingly.
- 3.6 Not later than:
- 3.6.1 35 Working Days from the latest submission of the Development Viability Information above, if no request is made under paragraph 3.3 above; or
  - 3.6.2 25 Working Days from the date of receipt by the Council of the information submitted pursuant to paragraph 3.4 above, if a request is made under paragraph 3.3 above



the Council shall notify the Owner in writing of the Council's decision as to whether any Surplus has arisen and whether the Development Viability Information is approved.

- 3.7 Where the Council concludes that a Surplus has arisen but the Owner's initial submission concluded otherwise or if any part of the Additional Affordable Housing Statement is not approved by the Council, the Owner shall provide a revised Additional Affordable Housing Statement to the Council for approval (such approval not to be unreasonably withheld or delayed) within 15 Working Days of the date on which it receives the Council's notice pursuant to paragraph 3.6.
- 3.8 If an Additional Affordable Housing Statement is submitted to the Council pursuant to paragraph 3.7 above, the Council shall notify the Owner in writing of the Council's decision as to whether the submitted Additional Affordable Housing Statement is approved within 15 Working Days of receipt of the submission and, if the Additional Affordable Housing Statement is not approved, paragraph 3.7 and this paragraph 3.8 shall continue to apply mutatis mutandis.
- 3.9 If the Council's assessment pursuant to paragraph Schedule 3Part 13.6 concludes that:
- 3.9.1 a Surplus arises but the Affordable Housing Surplus is insufficient to enable an Affordable Housing Enhanced Minimum; or
- 3.9.2 a Surplus arises but the Affordable Housing Surplus cannot deliver a whole number of Additional Affordable Housing Units

then the Owner shall pay the Affordable Housing Surplus or, in the case of 3.9.2, the remainder of the Affordable Housing Surplus that is insufficient to provide a whole Additional Affordable Housing Unit to the Council as an Early Stage Review Contribution not later than 30 Working Days after the Council's confirmation.

- 3.10 If the Council's assessment pursuant to paragraph 3.8 concludes that a Surplus arises that is sufficient to enable an Affordable Housing Enhanced Minimum then the Owner shall submit details of the tenure, size, location and timing for delivery (expressed as a restriction on Occupation of a proposed number of Market Housing Units) of the Additional Affordable Housing Units to the Council for approval.
- 3.11 The Owner shall construct, complete and make available for Occupation as Affordable Housing the Additional Affordable Housing Units approved by the Council pursuant to paragraph 3.10 in accordance with the approved details.
- 3.12 The Owner covenants not to Occupy the number of Market Housing Units agreed pursuant to the details submitted in accordance with paragraph 3.10 until the Additional Affordable Housing Units to be provided pursuant to paragraph 3.10 have been constructed, completed and made available for Occupation as Affordable Housing.
- 3.13 The Owner shall pay the Council's costs which are reasonably and properly incurred in assessing the Development Viability Information including those of the External Consultant(s) within 20 Working Days of receipt of a written request for payment.

## **Part 2: Mid-Stage Review**

### **1 MID-STAGE REVIEW TRIGGERS**

The Owner shall notify the Council in writing of submission of the Mid-Stage Review Date not less than 20 Working Days in advance of that date.

### **2 SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION**

Not later than 10 Working Days after the Mid-Stage Review Date notified to the Council pursuant to paragraph 1, the Owner shall submit to the Council the Development Viability Information on the basis that the Council may make such information publicly available.



### **3 ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION**

- 3.1 The Council shall assess the Development Viability Information and assess whether in its view a Surplus has arisen and whether the submitted Development Viability Information is approved and for the avoidance of doubt the Council (acting reasonably) will be entitled to rely on its own evidence subject to such evidence also being provided to the Owner.
- 3.2 The Council appoint an External Consultant to assess the Development Viability Information PROVIDED THAT:
- 3.2.1 the External Consultant(s) must be appointed not later than 10 Working Days after submission of the Development Viability Information; and
- 3.2.2 any External Consultant(s) so appointed will report to the Council:
- (a) not later than 20 Working Days after the date of receipt by the External Consultant(s) of the Development Viability Information, if no request is made under paragraph 3.3 below; or
- (b) not later than 20 Working Days after the date of receipt by the External Consultant(s) of the information submitted pursuant to paragraph 3.4 below, if a request is made under paragraph 3.3 below.
- 3.3 Not later than 20 Working Days after submission of the Development Viability Information, the Council and/or an External Consultant may request in writing from the Owner further information or supporting evidence for the relevant Development Viability Information.
- 3.4 The Owner shall provide any reasonably required information to the Council or the External Consultant(s) (as applicable and with copies to the other parties) within 10 Working Days of receiving a request under paragraph 3.3 above.
- 3.5 The process in paragraphs 3.3 and 3.4 may be repeated until the Council and/or the External Consultant(s) (as applicable) has all the information it reasonably requires to assess whether in their view a Surplus has arisen, with the periods in 3.2.2(b), 3.3, 3.4 and 3.7.2 restarting accordingly.
- 3.6 If the Council and/or the External Consultant(s) determines following receipt of the Development Viability Information that the Mid-Stage Review Date has not occurred, the Council (each acting reasonably) may require the Owner to promptly submit additional Development Viability Information or to re-submit the Development Viability Information upon the occurrence of the Mid-Stage Review Date (as determined by the Council).
- 3.7 Not later than:
- 3.7.1 35 Working Days from the latest submission of the Development Viability Information, if no request is made under paragraph 3.3 above; or
- 3.7.2 25 Working Days from the date of receipt by the Council of the information submitted pursuant to paragraph 3.4 above, if a request is made under paragraph 3.3 above
- the Council shall notify the Owner in writing of the Council's decision as to whether any Surplus has arisen and whether the submitted Development Viability Information is approved.
- 3.8 Where the Council concludes that a Surplus has arisen but the Owner's initial submission concluded otherwise or if any part of the Additional Affordable Housing Statement initially submitted is not approved by the Council, the Owner shall provide the Additional Affordable Housing Statement to the Council for approval (such approval not to be unreasonably withheld or delayed) within 15 Working Days of the date on which it receives the Council's notice pursuant to paragraph 3.7.



- 3.9 If an Additional Affordable Housing Statement is submitted to the Council pursuant to paragraph 3.8 above, the Council shall notify the Owner in writing of the Council's decision as to whether the submitted Additional Affordable Housing Statement is approved within 15 Working Days of receipt of the submission and, if the submitted Additional Affordable Housing Statement is not approved, paragraph 3.7 and this paragraph 3.9 shall continue to apply mutatis mutandis.
- 3.10 If the Council's assessment pursuant to paragraph 3.8 concludes that:-
- 3.10.1 a Surplus arises but the Affordable Housing Surplus is insufficient to enable an Affordable Housing Enhanced Minimum; or
  - 3.10.2 a Surplus arises but the Affordable Housing Surplus cannot deliver a whole number of Additional Affordable Housing Units
- the Owner shall pay the Affordable Housing Surplus or, in the case of 3.10.2, the remainder of the Affordable Housing Surplus that is insufficient to provide a whole Additional Affordable Housing Unit to the Council as the Mid-Stage Review Contribution not later than 30 Working Days after the Council's confirmation at paragraph 3.8.
- 3.11 If the Council's assessment pursuant to paragraph 3.8 concludes that a Surplus arises that is sufficient to enable an Affordable Housing Enhanced Minimum then the Owner shall submit details of the tenure, size and location of the Additional Affordable Housing Units to the Council for approval.
- 3.12 The Owner shall not Occupy or permit or suffer Occupation of more than 75% of the Market Housing Units in the Development until the details of all of the Additional Affordable Housing Units submitted pursuant to paragraph 3.11 have been approved by the Council and are constructed, completed and are made available for Occupation as Affordable Housing.
- 3.13 The Owner shall pay the Council's costs which are reasonably and properly incurred in assessing the Development Viability Information including those of the External Consultant(s) within 20 Working Days of receipt of a written request for payment.

### **Part 3: Late Stage Review**

#### **1 LATE STAGE VIABILITY REVIEW TRIGGER**

The Owner shall notify the Council in writing of the anticipated Late Stage Review Date not less than 20 Working Days in advance of that date.

#### **2 SUBMISSION OF DEVELOPMENT VIABILITY INFORMATION**

No later than 20 Working Days after the Late Stage Review Date is notified to the Council, the Owner shall submit to the Council the Development Viability Information on the basis that the Council may make such information publicly available.

#### **3 ASSESSMENT OF DEVELOPMENT VIABILITY INFORMATION**

- 3.1 The Council shall assess the Development Viability Information and assess whether:-

- 3.1.1 a Late Stage Review Contribution is payable subject to the Late Stage Review Cap; and
- 3.1.2 the value of the Late Stage Review Contribution; and

the Council (both acting reasonably) will be entitled to rely on its own evidence subject to such evidence being relevant and also being provided to the Owner.

- 3.2 The Council may appoint an External Consultant to assess the Development Viability Information PROVIDED THAT:



- 3.2.1 the External Consultant(s) must be appointed not later than 10 Working Days after submission of the Development Viability Information; and
- 3.2.2 any External Consultant(s) so appointed will report to the Council:
  - (a) not later than 20 Working Days after the date of receipt by the External Consultant(s) of the Development Viability Information, if no request is made under paragraph 3.3 below; or
  - (b) not later than 20 Working Days after the date of receipt by the External Consultant(s) of the information submitted pursuant to paragraph 3.4 below, if a request is made under paragraph 3.3 below.
- 3.3 Not later than 20 Working Days after submission of the Development Viability Information, the Council and/or a External Consultant may request in writing from the Owner further information or supporting evidence of the Development Viability Information.
- 3.4 The Owner shall provide any reasonably required information to the Council or the External Consultant(s) (as applicable and with copies to the other parties) within 10 Working Days of receiving a request under paragraph 3.3 above.
- 3.5 The process in paragraphs 3.3 and 3.4 may be repeated until the Council and/or the External Consultant(s) (as applicable) has all the information it reasonably requires to assess whether in its view any Late Stage Review Contribution is required subject to the Late Stage Review Cap, with the periods in paragraphs 3.2.2(b), 3.3, 3.4 and 3.7.2 restarting accordingly.
- 3.6 If the Council and/or External Consultant(s) determine following receipt of the Development Viability Information that the Late Stage Review Date has not occurred, the Council (acting reasonably) may require the Owner to promptly submit additional Development Viability Information or to re-submit the Development Viability Information upon the occurrence of the Late Stage Review Date (as determined by the Council).
- 3.7 Not later than:
  - 3.7.1 35 Working Days from the latest submission of the Development Viability Information, if no request is made under paragraph 3.3 above; or
  - 3.7.2 25 Working Days from the date of receipt by the Council of any information provided to the Council pursuant to paragraph 3.4 above, if a request is made under paragraph 3.3 above

the Council shall notify the Owner in writing of its decision as to whether any Late Stage Review Contribution is required and, if so, the value of the Late Stage Review Contribution.
- 3.8 The Late Stage Review Contribution shall not be higher than the Late Stage Review Cap, and in the event that the Affordable Housing Surplus is greater than the Late Stage Review Cap then the Late Stage Review Contribution shall be deemed to be reduced to a sum that is equal to the Late Stage Review Cap (but shall not be less than zero).
- 3.9 The Owner shall not Occupy more than 75 per cent of the Dwellings until the Council has notified the Owner in writing of its decision pursuant to paragraph 3.7 as to whether any Late Stage Review Contribution is required.
- 3.10 If the Council notifies the Owner pursuant to paragraph 3.7 a Late Stage Review Contribution is required:
  - 3.10.1 the Owner shall pay the Late Stage Review Contribution to the Council within 40 Working Days of the date on which such notice is received; and



- 3.10.2 the Owner shall not Occupy more than 85 per cent of the Dwellings until the Late Stage Review Contribution has been paid in full to the Council.
- 3.11 The Owner shall pay the Council's costs which are reasonably and properly incurred in assessing the Development Viability Information including those of the External Consultant(s) within 20 Working Days of receipt of a written request for payment.

#### **4 MONITORING**

- 4.1 The Council covenants to report to the GLA through the Planning London Datahub the information in paragraph 4.2 below (to the extent applicable) as soon as reasonably practicable after each approval by the Council of each Additional Affordable Housing Statement.
- 4.2 The information referred to in paragraph 4.1 above is:
- 4.2.1 the number and tenure of the Additional Affordable Housing Units (if any) and the number of Habitable Rooms in the Additional Affordable Housing Units (if any);
  - 4.2.2 any changes in the tenure or affordability of the Affordable Housing Units; and
  - 4.2.3 the amount of any financial contribution payable towards offsite Affordable Housing pursuant to paragraph 3.9 of Part 1 of this Schedule 3, paragraph 3.10 of Part 2 of this Schedule 3 and paragraph 3.7 of Part 3 of this Schedule 3.



**APPENDIX 1 TO SCHEDULE 3**  
**REQUIREMENTS FOR UPDATED VIABILITY APPRAISALS AND APPLICATION OF SURPLUS**

**1 BASIS OF EACH REVIEW**

- 1.1 Each Updated Viability Appraisal will reflect actual costs incurred, current values and actual areas at the Relevant Review Date.
- 1.2 All costs and revenues will be reviewed other than land costs which will be fixed.
- 1.3 The minimum level of Affordable Housing is the Affordable Housing Minimum, or if an Additional Affordable Housing Statement has been approved, the latest previously approved Affordable Housing Enhanced Minimum.

**2 GENERAL ASSUMPTIONS**

- 2.1 In the event of a conflict between the assumptions in this paragraph and actual figures that are submitted pursuant to each Updated Viability Appraisal, actual figures will replace the assumptions. Where assumptions are made, they should be supported by evidence.
- 2.2 Benchmark land value will be fixed at £1,122,112 (one million one hundred and twenty two thousand one hundred and twelve pounds).
- 2.3 Overall programme length will be based upon:
  - 2.3.1 works undertaken to date (in respect of the Mid-Stage Review and Late Stage Review; and
  - 2.3.2 the Agreed Application Stage Viability Appraisal in respect of the Early Stage Review.
- 2.4 Assumptions regarding gross external areas, gross internal areas, net internal areas and net saleable areas will be as agreed in writing by the GLA and the Council.

**3 COSTS**

- 3.1 Non-eligible plot costs are set out in Appendix 2 to Schedule 3.
- 3.2 Costs that are both site-wide and plot-specific must not be double counted.
- 3.3 Actual costs will be supported by evidence to the GLA's and the Council's satisfaction including (but not limited to) details of payments made or agreed to be paid in a building contract, receipted invoices and costs certified by the Owner's quantity surveyor, costs consultant or agent.

**4 VALUES**

- 4.1 The revenues and timings of receipts for Affordable Housing Units and Additional Affordable Housing Units will be evidenced through Market Value where the relevant units are not disposed to an Affordable Housing Provider through an arms-length transaction between the Affordable Housing Provider and the Owner.

**5 AREAS**

- 5.1 To the extent Phases and/or Buildings have Reserved Matters Approval, actual floor areas should be substituted for estimated areas.

**6 APPLICATION OF SURPLUS**

- 6.1 In the event that there is an Affordable Housing Surplus this paragraph explains how the Affordable Housing Surplus will be used to increase the Affordable Housing Minimum or the latest previously approved Affordable Housing Enhanced Minimum.



- 6.2 In the case of the Early Stage Review on the inclusion of the Affordable Housing Surplus in that review, the increase to the Affordable Housing Minimum is equivalent to the number of Affordable Housing Units that must be added to the approved Updated Viability Appraisal for the Developer's return to reduce to the Target Return.
- 6.3 In the case of the Mid-Stage Review on the inclusion of the Affordable Housing Surplus in that review the increase to the Affordable Housing Minimum is equivalent to the number of Affordable Housing Units that must be added to the approved Updated Viability Appraisal for the Developer's return to reduce to the Target Return.

## **7 APPLICATION OF PUBLIC SUBSIDY**

- 7.1 As part of each Viability Review, any Public Subsidy will be added as income to the Updated Viability Appraisal after completion of the processes set out at 6.2 and 6.3.
- 7.2 In the event that Public Subsidy is made available and is applied (together with any Affordable Housing Surplus) in accordance with paragraphs 6.2, 6.3 and 7.1 the Affordable Housing Minimum or the Enhanced Affordable Housing Minimum will be increased by the number of Affordable Housing Units that must be added to the Updated Viability Appraisal for the Developer's return to reduce to the Target Return.



## **APPENDIX 2 TO SCHEDULE 3 INELIGIBLE COSTS**

The following costs are considered to be included within the Developer's return and cannot be included within the Updated Viability Appraisal as development costs.

This list is not exhaustive but serves to illustrate the type of costs that cannot be included as they are considered Developer's overheads. For a cost to be considered 'ineligible', it must not directly relate to the delivery of the construction of the Development.

- Staff salaries (apart from that directly relate to the supervision and delivery of construction work if carried out by the Developer's staff rather than external surveyors).
- Supervision of staff and contractors (where this is an internal staff supervisory role, not an external consultant).
- Staff training (apart from construction related training).
- Insurance (apart from any necessary insurance relation to the development site).
- Office costs (rent, maintenance, refurbishments or alterations, security, lighting, heating, cooling, telephone and internet services, couriers, equipment, general office supplies).
- Taxes.
- Finance costs or interest payments.
- Accounting costs.
- Legal fees (apart from legal fees that relate to the construction, demolition or delivery of the development).
- Depreciation.
- Advertising
- Consulting services (apart from any consulting services incorporated within the professional fees that relate planning or construction of the development).



### APPENDIX 3 TO SCHEDULE 3

#### FORMULA 4

X = Late Stage Review Cap

$$X = (((A * D) - (B * D)) * E) + (((A * D) - (C * D)) * F)$$

Where:

A = Average Open Market Housing Value (£)

B = Average Low Cost Rent Housing Value (£)

C = Average Intermediate Housing Value (£)

D = []m<sup>2</sup>, being the average Habitable Room size for the Development

E =

- being the shortfall in Low Cost Rent Housing (by Habitable Room) (determined at the time planning permission was granted or as updated following previous review) in addition to being compared with the Additional Affordable Housing Target Tenure Split.

F =

- being the shortfall in Intermediate Housing (by Habitable Room) (determined at the time planning permission was granted or as updated following previous review) in addition to being when compared with the Additional Affordable Housing Target Tenure Split.



**SCHEDULE 4**  
**PEDESTRIAN SAFETY IMPROVEMENT WORKS AND HIGHWAY WORKS**

The Owner hereby covenants and agrees with the Council as follows:

**1 PEDESTRIAN SAFETY IMPROVEMENT WORKS**

- 1.1 To pay to the Council the Pedestrian Safety Improvement Works Contribution prior to Commencement; and
- 1.2 Not to Commence or cause or allow to be Commenced the Development until the Pedestrian Safety Improvement Works Contribution has been paid to the Council.

**2 HIGHWAY WORKS**

- 2.1 Not to Commence Development until:-
  - 2.1.1 details of a temporary pedestrian access along the west side of Throwley Way adjacent to the Site (the "**Temporary Access**") has been submitted to and approved in writing by the Council's Highways Engineer; and
  - 2.1.2 the Temporary Access has been completed to the satisfaction of the Council in accordance with the details submitted to the Council pursuant to paragraph 2.1.1.
- 2.2 Not to Commence Development of a Phase until details of the scope and specification of the Highway Works required to be delivered within that Phase (including the scope and specification of any associated works, studies, audits or modelling) has been submitted to and approved in writing by the Council's Highways Engineer
- 2.3 To enter into one or more Highway Agreements for the Highway Works before the Highway Works are commenced within a Phase that secures the delivery of the Highway Works or to procure that the Owner's successor in title to the Land shall enter into one or more Highway Agreements for the Highway Works before the Highway Works are commenced within a Phase.
- 2.4 Not to Occupy or permit or cause to be Occupied a Phase of the Development until the Highway Works required to be delivered within that Phase (as shown in the approved Site Wide Phasing Strategy) have been completed to the satisfaction of the Council.
- 2.5 To be responsible for the full costs of the Highway Works including any traffic orders the Council seeks to make which are necessary to implement the Highway Works as agreed with the Owner, whether or not such orders are successfully made.
- 2.6 To pay the Council's reasonable and proper legal costs in entering into any Highway Agreements prior to the Council entering into any Highway Agreements.



**SCHEDULE 5  
RESIDENTIAL AND VISITOR PARKING PERMITS**

- 1 The Owner hereby covenants and agrees with the Council as follows:
  - 1.1 Upon completion of this Deed not to apply to the Council for a Parking Permit in respect of any Dwelling nor to knowingly permit any owner or occupier of a Dwelling to apply to the Council for a Parking Permit and if such a permit is issued in respect of the Dwelling it shall be surrendered to the Council within seven (7) days of written demand.
  - 1.2 That all material used for advertising or marketing the Dwellings for letting or sale will notify prospective owners and occupiers that they will not be entitled to apply for a Parking Permit.
  - 1.3 That in respect of every freehold transfer or lease granted, assigned, transferred or otherwise provided in respect of the Dwelling the following covenant shall be imposed (or a covenant of substantially the same nature in respect of any tenancy agreement licence or other instrument entitling Occupation of the Dwelling):

*"the transferee/lessee for himself and his successors in title being the owner or owners for the time being [of [plot No. [ ]]/the terms of years hereby granted] hereby covenant with the transferor/lessor and separately with the Mayor and Burgesses of the London Borough of Sutton ("the Council") not to apply for nor knowingly permit an application to be made by any person residing in the premises to the London Borough of Sutton for a parking permit (save for the display of badges on motor vehicles used by disabled persons issued pursuant to section 21 of the Chronically Sick and Disabled Persons Act 1970 as amended or any occupier or owner of an exempted premise as identified on the exempted premises list as has been approved in writing by the Council) and if such a permit is issued then it shall be surrendered within seven (7) days of written request to do so from the Council and this covenant shall also be enforceable by the Council under the Contracts (Rights of Third Parties) Act 1999, section 1"*
  - 1.4 Prior to Occupation of the Development the Owner shall provide the Exempted Premises List and Supporting Evidence to the Planning Obligations Officer for written approval.
  - 1.5 Not to Occupy the Development or permit or cause the Development to be Occupied until the Exempted Premises List and Supporting Evidence has been approved in writing by the Planning Obligations Officer.
  - 1.6 The Owner shall be permitted to submit a revised Exempted Premises List to the Planning Obligations Officer prior to the Occupation of each subsequent Phase of the Development.
  - 1.7 The obligations within this **Schedule 5** shall remain in place for the lifetime of the Development.



## **SCHEDULE 6 PUBLIC ACCESS**

- 1 The Owner hereby covenants and agrees with the Council as follows:
  - 1.1 Prior to first Occupation of the Development the Owner shall lay out the Temporary Pedestrian Access as shown on the Site Wide Phasing Strategy.
  - 1.2 Not to Occupy the Development until the Owner has laid out the Temporary Pedestrian Access as shown on the Site Wide Phasing Strategy.
  - 1.3 The Owner shall provide and allow public access to the Temporary Pedestrian Access until such time as the Pedestrian Access has been provided pursuant to paragraph 1.6 of this Schedule 6
  - 1.4 Prior to Occupation of the relevant Phase(s) where the Public Realm is to be delivered the Owner shall lay out the Public Realm required to be delivered within that Phase within the Public Realm Land substantially in the position shown on the Public Realm Plan in accordance with the details approved in the Planning Permission and/or the Reserved Matters Approval for the purposes of accommodating the Public Realm for the lifetime of the Development.
  - 1.5 Not to Occupy the relevant Phase where the Public Realm is to be delivered until the Owner has laid out the Public Realm required to be delivered within that Phase within the Public Realm Land substantially in the position shown on the Public Realm Plan in accordance with the details approved in the Planning Permission and/or the Reserved Matters Approval for the purposes of accommodating the Public Realm for the lifetime of the Development.
  - 1.6 Prior to the Occupation of 95% of the Dwellings within the Development to lay out the Pedestrian Access substantially in the position shown in the Pedestrian Access Plan in accordance with the details approved in the Planning Permission and/or the Reserved Matters Approval for the purposes of accommodating the Pedestrian Access for the lifetime of the Development.
  - 1.7 The Owner shall allow public access to the Public Realm and Pedestrian Access from Practical Completion of the Development provided always that the Owner may close and/or prevent public use or access to the Public Realm and Pedestrian Access in the case of:
    - 1.7.1 Fire, flooding, emergency or other disaster or circumstances making public access unsafe or otherwise inappropriate, or for reasons of security to public safety, except that such closure shall not continue for more than is reasonably necessary;
    - 1.7.2 A requirement to carry out maintenance, repairs cleaning, renewal to the open space and public realm and any adjoining buildings or service media serving such adjoining buildings that is necessary or required provided that any works shall be undertaken in such a way as to cause minimum disruption to the public; and
    - 1.7.3 For the avoidance of doubt it is intended that those parts of the Public Realm and Pedestrian Access shall remain private and shall not become or be designated as public highway or public footpath as a result of this Schedule and the Owner shall be permitted to take such steps as are necessary to ensure that this is the case, including without limitation, erecting appropriate signage and/or closing public routes to the public for up to two days per annum so that the permissive nature of the public's access to the Public Realm and Pedestrian Link is clear.
  - 1.8 The Public Realm and Pedestrian Access shall remain publicly accessible at all times (i.e. ensuring public access is not restricted by gates, fences or such other boundary materials) save as set out in paragraph 1.3 above of this Schedule 6, for the lifetime of the Development.
  - 1.9 The Owner covenants that it shall not install gates, fences or other types of boundary materials to prevent public access to the Public Realm or Pedestrian Access.



## **SCHEDULE 7 TRAVEL PLAN**

### **Residential Travel Plan**

- 1.1 The Owner covenants with the Council to submit a Residential Travel Plan to the Council for approval prior to Occupation of any Dwelling and not to Occupy any Dwelling until the Council has approved a Residential Travel Plan in writing.
- 1.2 The Owner covenants to comply with the terms of the approved Residential Travel Plan (or such other travel plan as may be varied or substituted by agreement between the parties from time to time) in the manner and at the times specified within those plans for a period of not less than 5 years from the date on which the part of the Development specified within the Residential Travel Plan is first Occupied.
- 1.3 Within 30 Working Days after Occupation of more than 75% of the Dwellings and on the first third and fifth anniversary thereof, the Owner shall (unless otherwise agreed by the Council) submit to the Council a written review of the implementation of the Residential Travel Plan including a data survey showing trip generation from the Development and proposals for potential revisions to the Residential Travel Plan necessary to improve performance against the Targets. The survey shall be carried out in compliance with the methodology set out in "Guidance for Residential Travel Planning in London" published by Transport for London in March 2008 (or such other methodology as may be agreed between the Owner and the Council) at the Owner's cost.
- 1.4 The Owner shall implement (to the reasonable satisfaction of the Council) such amendments to the Residential Travel Plan and then implement any such amendments as the reviews thereof submitted to and approved by the Council shall propose as soon as reasonably practicable following submission of the relevant review pursuant to paragraph 1.3 above.
- 1.5 The Owner covenants to pay the Residential Travel Plan Monitoring Fee on or prior to first Occupation of any Dwelling.

### **Commercial Travel Plan**

- 1.6 The Owner covenants with the Council to submit a Commercial Travel Plan to the Council for approval prior to Occupation of any Commercial Unit and not to Occupy any Commercial Unit until the Council has approved a Commercial Travel Plan in writing.
- 1.7 The Owner covenants to comply with the terms of the approved Commercial Travel Plan (or such other travel plan as may be varied or substituted by agreement between the parties from time to time) in the manner and at the times specified within those plans for a period of not less than 5 years from the date on which the part of the Development specified within the Commercial Travel Plan is first Occupied.
- 1.8 The Owner covenants to use reasonable endeavours to:-
  - 1.8.1 make visitors to the Commercial Units aware of the restrictions in the approved Commercial Travel Plan (or such other travel plan as may be varied or substituted by agreement between the parties from time to time); and
  - 1.8.2 encourage visitors to the Commercial Units to comply with the restrictions in the approved Commercial Travel Plan (or such other travel plan as may be varied or substituted by agreement between the parties from time to time).
- 1.9 Within 30 Working Days after Occupation of the final Commercial Unit to be Occupied and on the first anniversary thereof the Owner shall (unless otherwise agreed by the Council) submit to the Council a written review of the implementation of the Commercial Travel Plan including a data survey showing trip generation from the Development and proposals for potential revisions to the Commercial Travel Plan necessary to improve performance against the Targets. The survey shall be carried out in compliance with the methodology set out in "Guidance for Commercial Travel Planning in London"



published by Transport for London in March 2008 (or such other methodology as may be agreed between the Owner and the Council) at the Owner's cost.

- 1.10 The Owner shall implement (to the reasonable satisfaction of the Council) such amendments to the Commercial Travel Plan and then implement any such amendments as the reviews thereof submitted to and approved by the Council shall propose as soon as reasonably practicable following submission of the relevant review pursuant to paragraph 1.9 above.
- 1.11 The Owner covenants to pay the Commercial Travel Plan Monitoring Fee on or prior to first Occupation of any Commercial Units.



## SCHEDULE 8 CAR PARKING

### 1 CAR PARKING STRATEGY

- 1.1 Two months prior to Commencing the above ground works the Owner shall submit a plan to the Council for the Council's written approval showing the location of the car parking spaces within the Development; and
- 1.2 The Owner shall not Commence the above ground works until the Council has approved the location of the car parking spaces within the Development in writing PROVIDED THAT the location of the car parking spaces within the Development shall be deemed to be approved where the Council has not provided a response within twenty eight (28) days of submission of the plan under paragraph 1.1 ("**Approved Car Parking Spaces**").
- 1.3 The freehold interests in the Approved Car Parking Spaces within the Development shall not be sold to Occupiers of the Development SAVE FOR where the car parking spaces are transferred as part of the freehold plot of an individual Dwelling
- 1.4 Save for where car parking spaces are transferred pursuant to paragraph 1.3 above, the approved car parking spaces within the Development shall only be transferred to Occupiers on a short-term leasehold basis subject to a restriction that such car parking spaces shall not be sub-let to any third party.
- 1.5 The Owner shall submit a Car Parking Management Plan to the Council for approval prior to first Occupation of the Development.
- 1.6 The Development shall not be Occupied until the Council has approved the Car Parking Management Plan (approval not to be unreasonably withheld).
- 1.7 The approved Car Parking Management Plan shall be implemented from first Occupation of the Development for the lifetime of the Development.



## **SCHEDULE 9 ENERGY AND SUSTAINABILITY**

### **1 CARBON OFFSET**

The Owner hereby covenants and agrees with the Council as follows:

- 1.1 Prior to Commencement of a Phase of the Development the Owner shall submit for written approval to the Council an Energy Assessment for the relevant Phase which shall include a calculation of any Carbon Reduction Shortfall of the relevant Phase in accordance with the following formula:

$$A \times £95 \times 30$$

Where:

'A' is the number of tonnes CO<sub>2</sub> identified within the Energy Assessment

- 1.2 Where a Carbon Reduction Shortfall has been identified through the approved Energy Assessment to submit to the Council for approval an assessment of the Carbon Offset Contribution for that Phase prior to Commencement of Development of that Phase; and
- 1.3 Not to Commence Development until the Carbon Offset Contribution for that Phase has been approved and the approved Carbon Offset Contribution for that Phase has been paid to the Council.
- 1.4 No later than 6 months following Practical Completion of each Phase the Owner shall undertake the Carbon Offset Contribution Recalculation for the relevant Phase and submit the same to the Council for its approval.
- 1.5 The Owner shall pay the balance of the Second Instalment of the Carbon Offset Contribution (if greater than zero) to the Council within 30 Working Days after the Carbon Offset Contribution Recalculation is approved in writing by the Council.
- 1.6 In the event that the Carbon Offset Contribution Recalculation shows that the Second Instalment of the Carbon Offset Contribution is less than zero then the Carbon Offset Contribution payable in respect of the next Phase to be Commenced shall be reduced accordingly.
- 1.7 In the event that the Carbon Offset Contribution Recalculation in respect of the last Phase to be constructed shows that the relevant Second Instalment of the Carbon Offset Contribution is less than zero, then the balance shall be repaid to Owner by the Council within 30 Working Days after the approval by the Council of the relevant Carbon Offset Contribution Recalculation.

### **2 ENERGY MONITORING**

- 2.1 The Owner shall submit to the GLA:-

- 2.1.1 Before Commencement of the Development, accurate and verified estimates of the "Be Seen" energy performance indicators, as outlined in the "Planning stage" section/chapter of the GLA "Be Seen" energy monitoring guidance (or any document that may replace it) for the Development. The Owner shall submit this to the GLA in accordance with the 'Be Seen' energy monitoring guidance using the 'Be Seen' planning stage reporting webform (or any successor form)(<https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/london-plan-guidance-and-spgs/be-seen-energy-monitoring-guidance>);
- 2.1.2 Before Occupation of each Reportable Unit in the Development;
- (a) updated accurate and verified 'as-built' design estimates (including all data and supporting evidence) of the "Be seen" energy performance indicators for each Reportable Unit of the Development as per the methodology outlined in the "As-built stage" chapter/section of the "Be seen" energy monitoring guidance. All data and



supporting evidence should be submitted to the GLA using the 'Be Seen' as-built stage reporting webform (<https://www.london.gov.uk/what-we-do/planning/implementing-london-plan/london-plan-guidance-and-spgs/be-seen-energy-monitoring-guidance>); and

- (b) confirmation that suitable monitoring devices have been installed and maintained for the monitoring of the in-use energy performance indicators in respect of each Reportable Unit, as outlined in the "In-use stage" chapter/section of the "Be seen" energy monitoring guidance document (or any document that may replace it);

2.1.3 accurate and verified annual in-use energy performance data for all relevant indicators (including all data and supporting evidence) under each Reportable Unit of the Development as per the methodology outlined in the "In-use stage" chapter/section of the GLA 'Be Seen' energy monitoring guidance document (or any document that may replace it) on the later of:

- (a) completion of the first year of Occupation of such Reportable Unit within the Development; and
- (b) the end of the Defects Liability Period

and for the following four years after that date PROVIDED THAT this obligation will be satisfied once the Owner has reported on all relevant indicators included in the "In-use stage" chapter of the "Be seen" Guidance for at least five years.

2.2 In the event that the "In-use stage" evidence submitted under paragraph 2.1.3 shows that the "As-built stage" performance estimates derived from the information submitted under paragraph 2.1.2(a) have not been or are not being met, the Owner should investigate and identify the causes of underperformance and the potential mitigation measures and set these out in the relevant comment box of the "Be seen" spreadsheet through the GLA's Energy Monitoring Portal.

2.3 An action plan comprising measures identified in paragraph 2.2 above and which identifies measures that would be reasonably practicable to implement and a proposed timescale for implementation shall be prepared by the Owner and submitted to and approved in writing by the GLA.

2.4 The action plan and measures approved by the GLA under paragraph 2.3 should be implemented by the Owner as soon as reasonably practicable following approval.

### **3 DISTRICT HEAT NETWORK**

The Owner undertakes to construct or procure that the Development is constructed so that it is capable of being connected to a District Heat Network through the provision of sufficient centralised plant room space and riser space in the event that a District Heat Network is made available PROVIDING THAT any such connection is viably and reasonable possible



**SCHEDULE 10**  
**AIR QUALITY CONTRIBUTION**

The Owner covenants where the Development is Phased:-

- 1.1 Where an Air Quality Assessment demonstrates that a Phase fails to meet Air Quality Neutral standards, the Owner shall prior to Occupation of that Phase:-
  - 1.1.1 submit to the Council for approval a calculation of the Air Quality Contribution for that Phase;
  - 1.1.2 pay to the Council the approved Air Quality Contribution. prior to Occupation of that Phase.
- 1.2 The Owner shall not Occupy any Phase of the Development until the Owner has:-
  - 1.2.1 submitted to the Council for approval a calculation of the Air Quality Contribution for that Phase; and
  - 1.2.2 paid any Air Quality Contribution that is due in respect of that Phase.

The Owner covenants where the Development is proceeding under one Phase:-

- 1.3 Where an Air Quality Assessment demonstrates that the Development fails to meet Air Quality Neutral standards, the Owner shall prior to Occupation of the Development:-
  - 1.3.1 submit to the Council for approval a calculation of the Air Quality Contribution for the Development;
  - 1.3.2 pay to the Council the approved Air Quality Contribution. prior to Occupation of the Development.
- 1.4 The Owner shall not Occupy the Development until the Owner has:-
  - 1.4.1 submitted to the Council for approval a calculation of the Air Quality Contribution; and
  - 1.4.2 paid the Air Quality Contribution.



**SCHEDULE 11  
EMPLOYMENT AND SKILLS**

**1      EMPLOYMENT AND SKILLS PLAN**

1.1      The Owner covenants as follows:

- 1.1.1      To submit an Employment and Skills Plan for each Phase to the Council for its written approval (such approval not to be unreasonably withheld or delayed) not less than three months prior to Commencement of the relevant Phase; and
- 1.1.2      Not to Commence the relevant Phase until the Employment and Skills Plan for that Phase has been approved in writing by the Council.
- 1.1.3      To pay to the Council the Employment and Skills Plan Monitoring Fee upon submission of an Employment and Skills Plan in respect of a Phase.



**SCHEDULE 12**  
**BIODIVERSITY**

- 1.1 Not to Occupy the Development until the Biodiversity Net Gain Maintenance Scheme has been approved in writing by the Council
- 1.2 To implement the Biodiversity Net Gain Maintenance Scheme for a period of 30 years from first Occupation of the Development
- 1.3 To pay to the Council the Biodiversity Net Gain Review Fee on the 1st, 3rd, 5th, 10th, 20th and 30th anniversaries of the Occupation of the Development.



**APPENDIX 2  
PLAN**





Notes

- 1. Do not scale this drawing.
  - 2. All dimensions must be checked on site and any discrepancies verified with the architect.
  - 3. Unless shown otherwise, all dimensions are to structural surfaces.
  - 4. Drawing to be read with all other issued information. Any discrepancies to be brought to the attention of the architect.
  - 5. This drawing is the copyright of Levitt Bernstein and may not be copied, altered or reproduced in any form, or passed to a third party without license or written consent.
  - 6. This document is prepared for the sole use of London Borough of Sutton and no liability to any other persons is accepted by Levitt Bernstein. Levitt Bernstein accepts no liability for use of this drawing by parties other than the party for whom it was prepared or for purposes other than those for which it was prepared.
- This is not a construction drawing, it is unsuitable for the purpose of construction and must on no account be used as such.

Site Area = 8908.25 sqm = 0.890 ha

P04	01/03/24	OPA Submission	RC
P03	07/02/24	Design Freeze - Issue 3	RC
P02	18/01/24	Design Freeze - Issue 2	RC
P01	12/01/24	Design Freeze	JH
Rev	Date	Description	Drawn / Checked

Elm Grove

Estate regeneration

levittbernstein.co.uk

Drawing number	Rev
3465B - LB - ZZ - ZZ - D - A - 101000	P04
Drawing	

Site Location Plan

Purpose of issue	
For Information	
Scale	First issue date
As indicated @ A3	15/12/2023
Client	
London Borough of Sutton	

**London**  
Thane Studios  
2-4 Thane Villas  
London N7 7PA  
+44 (0)20 7275 7676

**Manchester**  
Bonded Warehouse  
18 Lower Byrom Street  
Manchester M3 4AP  
+44 (0)161 669 8740

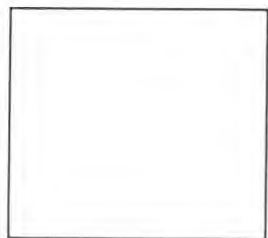


**APPENDIX 3**  
**DRAFT PLANNING PERMISSION**



**NOTE: Appendix 1 to the Planning Permission (the Agreed Form S106) has been omitted.**





# G

Application no: DM2024/00392

## PLANNING PERMISSION GRANTED

Town and Country Planning Act 1990

To: Enya MacIam Roberts  
Savills  
33 Margaret Street  
London  
W1G 0JD

Applicant: London Borough of Sutton  
Civic Offices, St Nicholas Way  
Sutton  
SM1 1EA

The Council of the London Borough of Sutton as Local Planning Authority under their powers provided by the above legislation, **DO HEREBY GRANT** permission for the development specified in the First Schedule hereto, subject to the conditions (if any) specified in the Second Schedule.

### FIRST SCHEDULE

In accordance with your application, valid on 15th March 2024.

#### Elm Grove Estate 216 - 220 High Street Sutton SM1 1NU

Outline planning application (with all matters reserved) for development including demolition of existing buildings and structures within Elm Grove Estate and erection of new buildings to provide residential floorspace (Class C3); retention, refurbishment and rear extension of 216-220 High Street to provide town centre (Class E), community (Class F2), sui generis and residential floorspace (Class C3); new pedestrian and vehicular access; associated amenity space, open space, public realm and landscaping; car and cycle parking spaces; plant; refuse storage; servicing; other works incidental to the proposed (phased) development; and Phase 0 enabling preliminary works in the form of demolition of two existing bungalows on-site.

### SECOND SCHEDULE

#### Condition(s):

- (1) The approved Development shall be carried out in accordance with the following drawings/details:

3465B-LB-XX-ZZ-D-A-106000 (Rev: P04)  
3465B-LB-XX-ZZ-D-A-106100 (Rev: P06)  
3465B-LB-XX-00-D-A-106200 (Rev: P05)  
3465B-LB-ZZ-ZZ-D-A-101000  
3465B-LB-XX-00-D-A-106300 (Rev: P04)  
3465B-LB-XX-ZZ-D-A-106400 (Rev: P04)  
3465B-LB-XX-ZZ-D-A-106401 (Rev: P05)  
3465B-LB-BA-ZZ-D-A-110021 (Rev: P01)  
3465B-LB-BA-ZZ-D-A-110020 (Rev: P02)  
Design Code by Levitt Bernstein dated March 2024



The following drawings were submitted with the outline planning application for information purposes only and not for formal approval:

<b>Document Title</b>	<b>Author</b>	<b>Date</b>
Development Specification Statement	Savills	March 2024
Planning Statement (incl. Affordable Housing Statement and Skills & Employment Strategy)	Savills	March 2024
Economic Benefits and Social Value Summary (appended to the Planning Statement)	Savills Economics	March 2024
Topographical Survey	Plowman Craven	March 2024
Phase 1 Geoenvironmental and Geotechnical Desk Study	AECOM	March 2024
Daylight, Sunlight and Overshadowing Assessment	eb7	March 2024
Heritage and Townscape Visual Impact Assessment (HTVIA)	Savills Heritage and Townscape	June 2024
Transport Assessment (including Parking Plans)	Markides	March 2024
Outline Delivery and Servicing Plan	Markides	March 2024
Financial Viability Assessment	Savills Viability	August 2024
Preliminary Ecological Appraisal	PJC	March 2024
Biodiversity Net Gain Assessment	PJC	June 2024
Urban Greening Factor Assessment	PJC	June 2024
Green Space Factor Assessment	PJC	June 2024
Bat Survey Report	Middlemarch	July 2024
Tree Survey and Arboricultural Impact Assessment	PJC	March 2024
Outline Energy Statement	AECOM	March 2024
Outline Overheating Report	AECOM	March 2024
Outline Overheating Report Addendum	AECOM	May 2024
Outline Sustainability Statement	Levitt Bernstein	March 2024
Outline Fire Safety Strategy	Toga Fire	March 2024
Design and Access Statement	Levitt Bernstein	March 2024
Design and Access Statement Addendum	Levitt Bernstein	June 2024
Illustrative Summary Accommodation & Area Schedule	Levitt Bernstein	March 2024
Air Quality Assessment (including Air Quality Neutral Assessment and Air Quality Positive Assessment )	AECOM	March 2024
Archaeological Desk Based Assessment	Savills Heritage and Townscape	March 2024
Indicative Demolition and Construction Method Statement	AECOM	March 2024
Illustrative Demolition Plan (ref: 3465B-LB-ZZ-ZZ-D-A-110002 rev P03)	LBA	March 2024
Outline Construction Logistics Plan	Markides	May 2024
Illustrative Refuse Management & Servicing Plan	Markides	March 2024
Flood Risk Assessment & Drainage Strategy (including LBS SUDs Proforma)	AECOM	March 2024
External Lighting Assessment	AECOM	March 2024
Microclimate and Wind Assessment	RWDI	March 2024
Noise Survey and Preliminary Acoustic Assessment	AECOM	March 2024
Statement of Community Involvement	Levitt Bernstein	March 2024
Framework Travel Plan	Markides	March 2024
Foul Sewage and Utilities Statement	AECOM	March 2024
Circular Economy Statement	AECOM	March 2024
Whole Life Cycle Carbon Assessment	AECOM	June 2024

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

- (2) For the purpose of interpreting the planning conditions attached to this decision notice, the following definitions apply unless expressly stated otherwise within the relevant condition(s):



"Agreed Form S106" means the agreed form of s106 agreement contained at Appendix 1

"Commencement" – means commencing or carrying out on Site of a material operation as defined in Section 56 (4) of the Town and Country Planning Act 1990 and "Commence" shall be construed accordingly

"Confirmatory Deed" – means the agreed form confirmatory deed annexed at Appendix 5 of the Unilateral Undertaking

"Confirmatory Unilateral Undertaking" means the agreed form confirmatory unilateral undertaking annexed at Appendix 6 of the Unilateral Undertaking

"Development" means as set out in the First Schedule to this Planning Permission

"Enabling Works" – means initial enabling works and Site set-up works required for the Development which may include:

- Site clearance and preparation;
- demolition (provided always that such works do not relate to any listed building within the Site);
- archaeological investigations and works;
- ground investigations;
- Site survey works;
- tree protection works;
- temporary access construction works;
- preparatory or remediation works;
- works for the laying termination or diversion of services;
- the erection of any temporary means of enclosure or Site notices;
- decontamination works;
- erection of any fences and hoardings around the Site;
- provision of temporary accommodation reasonably required for construction purposes only; and
- environmental Site investigations,

"Excluded Party means

- (i) an individual owner occupier of the Development or their mortgagee or chargee;
- (ii) any statutory undertaker who acquires any part of the Site or an interest therein solely for the purposes of the supply of electricity gas water drainage telecommunication services or public transport services or other utility services within or from the Site and for no other purpose; or
- (iii) any mortgagee or chargee or receiver with an interest in the Site unless and until it becomes a mortgagee or chargee in possession of any part of the Site in which case it will be bound by the obligation and undertaking in Condition 3 paragraphs (d) (a) and (d)(a)(ii)

"Legal Interest" means a legal interest in land that is capable of registration at HM Land Registry

"Phase" means a phase as indicated within the approved Site Wide Phasing Strategy.

"Phase 0 Works" means preliminary enabling works comprising:

- Asbestos survey
- Erection of hoarding
- Installation of noise/dust monitors
- Disconnection of mains services to properties concerned and meters removed.
- Demolition of existing bungalow structures to grade level.
- Removal of strip foundations
- Removal of all spoil and debris from Site.

"Site" means the land shown edged red on site location plan (3465B-LB-ZZ-ZZ-D-A-101000 P04)



"Site Wide Phasing Strategy" means a strategy comprising:

- i. A plan indicating the proposed Phases of the Development across the Site, including confirmation of the Plots to be delivered in each Phase;
- ii. A programme for the sequencing and an indication of the anticipated timing of works to be undertaken across the different Phases of the Development; and
- iii. Details of the proposed phasing of the Development for the purposes of the Community Infrastructure Levy Regulations 2010 (as amended).

"Unilateral Undertaking" means the unilateral undertaking given by the Council (as landowner) to the Council (as local planning authority) on the date hereof

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

- (3) No Development shall Commence other than the Phase 0 Works and the Enabling Works within the Site unless and until:
- a) title to the Site has been deduced to the satisfaction of the local planning authority;
  - b) one or more third parties (other than the Council as landowner) owns a Legal Interest in the Site;
  - c) all third parties who have a Legal Interest in the Site existing at the point of Commencement of the Development have entered into the Agreed Form S106 (or Confirmatory Deed as applicable); and
  - d) In the event that the Council as landowner owns a Legal Interest in the Site at the point of Commencement of Development:
    - a. a restriction has been registered against the Council's registered title in the Site preventing any future disposal by the Council as landowner (SAVE FOR any disposal to an Excluded Party) until the donee has entered into the Confirmatory Deed with the local planning authority to bind the relevant land with the obligations set out in the Agreed Form S106; and the Council as landowner has undertaken to the local planning authority as follows (either by way of the Unilateral Undertaking and/or one or more Confirmatory Unilateral Undertakings):
      - i. to abide by the terms of the Agreed Form S106 with the intention that the planning obligations contained therein bind all of its interest in the Site and will become enforceable against successors in title and persons deriving title under them;
      - ii. not to dispose of its interest in the Site without first imposing a legally enforceable obligation on the donee to enter into the Agreed Form S106 (or Confirmatory Deed as applicable) SAVE THAT this obligation and undertaking shall not apply in respect of any disposal to an Excluded Party

Reason: The London Borough of Sutton is both the applicant and the local planning authority, and there are currently no third party freehold or leasehold owners with sufficient locus to implement the approved Development. It is therefore considered that exceptional circumstances exist to justify the use of a negatively worded condition to secure the necessary planning obligations via a legal agreement. This is in accordance with National Planning Policy Guidance on the Use of Planning Conditions (Paragraph: 010 Reference ID: 21a-010-20190723).

- (4) Reserved matters applications must be submitted in accordance with the Site Wide Phasing Strategy. Approval of the details of the access, appearance, landscaping, layout and scale of the proposed Development (hereinafter called "the reserved matters") shall be obtained from the Local Planning Authority in writing before any Development other than the Phase 0 Works and Enabling Works begins on each Phase and the Development shall not be carried out except in accordance with the details so approved.

Reason: The application is in outline only and these details remain to be submitted and approved.

- (5) The first reserved matters application must be submitted to the Local Planning Authority no later than the expiry of THREE YEARS from the date of this permission. Applications for approval of the



Reserved Matters for all other reserved matters of the Development shall be submitted to the Local Planning Authority before the expiration of 15 YEARS from the date of this Decision Notice.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- (6) The Commencement of Development must be begun not later than the expiration of TWO years from the final approval of the last reserved matters.

Reason: To comply with Section 92 of the Town and Country Planning Act 1990 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

- (7) A) No Development shall Commence on any part of the Site, other than Phase 0 Works and Enabling Works, until a Site Wide Phasing Strategy has been submitted to and approved in writing by the Local Planning Authority. Any updates to the Site Wide Phasing Strategy shall be submitted to and approved by the Local Planning Authority. The submission of reserved matters applications and the phasing of the Development shall be carried out in accordance with the approved Site Wide Phasing Strategy, or such updated Site Wide Phasing Strategy as approved by the Local Planning Authority.

B) Prior to Commencement of each Phase (other than Phase 0 Works and Enabling Works), a Delivery Plan for the Phase shall be submitted to and approved in writing by the LPA. The Delivery Plan shall include a layout plan outlining the public realm and open space to be delivered with each Plot and the sequencing of works to be undertaken within that Phase.

Reason: For the avoidance of doubt and in the interests of proper planning and so as to ensure a coordinated approach to the delivery of the Development.

- (8) The Development hereby approved shall comprise no more than 282 residential units.

Applications for the approval of reserved matters submitted pursuant to this permission relating to layout and scale of a Phase which includes residential uses, shall be accompanied by a Housing Accommodation Schedule. This document shall explain and include:

a) The mix (size by bedroom, and tenure) of residential units within that Phase; and

b) A cumulative position statement on the provision of housing, having regard to any residential development approved in previous reserved matters and the indicative housing proposals for the remaining parts of the development. The Housing Accommodation Schedule shall demonstrate how the proposed Development as a whole accords with the indicative housing mix ranges or as otherwise agreed with the Local Planning Authority through evidence.

**Indicative Unit Range:**

1 bed: 23% to 43%

2 bed: 29% to 49%

3 bed: 5% to 8%

Reason: To ensure that the Development is undertaken in accordance with the approved drawing(s) and document(s), and that it delivers a range of unit sizes in accordance with Policy 9 of the Sutton Local Plan 2018.

- (9) The Development hereby approved shall comprise no more than 580 sqm (GIA) of non-residential uses, consisting of Flexible Use Class E floorspace and / or Use Class F2(b) and/or Sui Generis floorspace (drinking establishment with or without expanded food provision and/or venue for live music performances).

Reason: To protect the amenity of residents and promote local services, amenities and community uses where appropriate, in accordance with Policies 1 and 3 of the Sutton Local Plan 2018.



- (10) Car parking provision across the Site must not exceed 16 car parking spaces (to include disabled parking provision) for residential use.

Reason: In the interest of promoting a modal shift to sustainable modes of transport in accordance with Policy 37 of the Sutton Local Plan 2018.

- (11) The maximum height of development above existing AOD shall not exceed the parameters set out within the approved plan 'Building Heights Parameter Plan 3465B - LB - XX - ZZ - D - A - 106100 rev P06'.

Reason: To ensure that the scheme implemented is in accordance with the principles established within this permission.

- (12) The delivery of the enhanced existing public realm spaces and the proposed new public realm spaces shall accord with the parameters set out within the approved plan 3465B - LB - XX - 00 - D - A - 106300 rev P04.

Reason: To ensure that the scheme implemented is in accordance with the principles established within this permission.

- (13) a) The Development Plots hereby permitted and identified on the approved 'Parameter Plan 1\_Development Plots 3465B - LB - XX - ZZ - D - A - 106000 rev P04' are: A, B, C.

b) Reserved Matters applications shall be presented by Plot or Plots and shall be in accordance with all plot-related parameters and principles hereby approved, including those set out in the Parameter Plans, Design Code and such further relevant plot specific parameters and principles as are referred to elsewhere in these conditions.

Reason: For the avoidance of doubt and to identify the Development Plots to which Reserved Matters applications will need to be submitted and approved and to ensure the reserved matters are in accordance with relevant approved parameters and principles.

- (14) All Development shall accord with the principles contained within the approved Design Code ref 3465B March 2024 by Levitt Bernstein and conformity to this shall be detailed within each reserved matters submission.

Reason: To ensure that the scheme implemented is in accordance with the principles established within this permission.

- (15) A minimum of ten percent of all new-build dwellings shall be constructed to, or be capable of easy adaptation to, Building Regulations Optional Requirement Approved Document M4(3) Category 3: Wheelchair user dwellings (2015 edition).

All remaining new build-dwellings shall be constructed to comply with Building Regulations Optional Requirement Approved Document M4(2) Category 2: Accessible and adaptable dwellings (2015 edition), unless otherwise agreed in writing through the reserved matters applications.

Reason: To ensure that sufficient accessible housing is provided, in accordance with Policy 9 of the Sutton Local Plan 2018.

- (16) The following documents shall be submitted as part of each Reserved Matters Application, unless otherwise agreed in writing with the Local Planning Authority:

- a) Statement of Conformity to the Site Wide Phasing Strategy
- b) Design and Access Statement (to include details on sustainable design and construction, security and inclusive design)
- c) Landscaping and Public Realm Strategy - This strategy must clearly denote the areas of public realm which will be subject to 24 hours a day, 7 days a week, 365 days public access
- d) Town Planning Statement



e) Transport Statement

In respect of reserved matters applications for residential development, the following documents should be submitted in addition:

f) Daylight, Sunlight Assessment (Within the Development)

g) Housing Accommodation Schedule in accordance with Condition [6] and Tenure Plan

h) Play Strategy

i) In relation to the matter of scale a reserved matters application shall include:

- a statement (including accompanying design material, townscape views and detailed plans at an appropriate scale) to demonstrate that the scale of the Development accords with the relevant design code principles and parameters

j) In relation to the matter of appearance a reserved matters application shall include:

- a statement together with detailed plans, drawings, sections and elevations to explain the proposed detailed design and materials to be used on all external elevations of the building(s) and how the appearance of the Development accords with the relevant design code principles and parameters.

k) In relation to the matter of landscaping a reserved matters application shall include:

- plans, drawings and sections to explain details of the hard and soft landscaping, including Site levels, finished floor levels, proposed drainage arrangements, children's playspace, private and communal amenity areas, and planting (including trees, brown/green roofs, planters)
- a statement (including accompanying design material) to demonstrate that the landscaping proposals accord with the design code principles.

Reason: In order that the Reserved Matters Applications can be properly considered and assessed against the approved Parameter Plans and Design Code and in the interests of proper planning.

(17) Prior to the Commencement of Development of each Phase, excluding Phase 0 Works and Enabling Works, a full and detailed Fire Statement (in the form of an independent fire strategy produced by a third party suitably qualified assessor) must be submitted to be approved by the Local Planning Authority. The statement should detail how the Development proposal will function in terms of:

- each building's construction: methods, products and materials used;
- means of escape for all building users: stair cores, escape for building users who are disabled or require level access, and the associated evacuation strategy approach;
- demonstrating how each building has a minimum of at least one lift per core (or more subject to capacity assessments), and has a suitably sized fire evacuation lift suitable to be used to evacuate people who require level access from the building
- features which reduce the risk to life: fire alarm systems, passive and active fire safety measures and associated management and maintenance plans;
- access for fire service personnel and equipment: how this will be achieved in an evacuation situation, water supplies, provision and positioning of equipment, firefighting lifts, stairs and lobbies, any fire suppression and smoke ventilation systems proposed, and the ongoing maintenance and monitoring of these;
- how provision will be made to enable fire appliances to gain access to buildings; and
- ensuring that any potential future modifications to the buildings will take into account and not compromise the base build fire safety/protection measures.

Reason - In the interests of fire safety, in accordance with Policy D12 of the London Plan 2021.

(18) a) Prior to Commencement of Development of each Phase (excluding Phase 0 Works and Enabling Works) a stage 1 written scheme of investigation (WSI) must be submitted to and approved by the Local Planning Authority in writing. For land that is included within the WSI, no Development shall take place other than in accordance with the agreed WSI, and the programme and methodology of



Site evaluation and the nomination of a competent person(s) or organisation to undertake the agreed works.

b) If heritage assets of archaeological interest are identified by the stage 1 WSI then for those parts of the Site which have archaeological interest a stage 2 WSI shall be submitted to and approved by the Local Planning Authority in writing.

For land that is included within the stage 2 WSI, no below ground works shall take place other than in accordance with the agreed stage 2 WSI which shall include:

A. The statement of significance and research objectives, the programme and methodology of Site investigation and recording and the nomination of a competent person(s) or organisation to undertake the agreed works

B. Where appropriate, details of a programme for delivering related positive public benefits.

C. The programme for post-investigation assessment and subsequent analysis, publication and dissemination and deposition of resulting material. This part of the condition shall not be discharged until these elements have been fulfilled in accordance with the programme set out in the stage 2 WSI.

Reason: To ensure that there is an opportunity to properly investigate and record information on this Site, which is considered to be of high archaeological interest and safeguard the archaeological heritage of the Borough, in accordance with Policy 30 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (19) Prior to the Commencement of Development of each Phase of the Development, excluding Phase 0 Works but including Site-wide demolition and Site clearance works (Enabling Works), a Construction Logistics Plan (CLP) for the relevant phase must be submitted to and approved by the Local Planning Authority in writing. The CLP must include details of:

- (a) loading and unloading of plant and materials;
- (b) storage of plant and materials;
- (c) programme of works (including measures for traffic management);
- (d) provision of boundary hoarding;
- (e) hours of operation;
- (f) and means to prevent deposition of mud on the highway
- (g) delivery times (particularly abnormal loads),
- (h) details of holding areas and
- (i) contractors parking have been submitted, to and approved in writing by, the Local Planning Authority.

The Development shall be constructed in accordance with the approved statement.

Reason: To ensure that the proposed Development does not interfere with the free flow of traffic and conditions of safety on the public highway, and to ensure the Development process does not have a significant adverse impact on the amenities of nearby residential properties in accordance with Policies 29 and 36 of the Sutton Local Plan 2018 and Policy T7 of the London Plan 2021. This is required to be pre-Commencement to mitigate against the impacts of the demolition and construction processes.

- (20) Prior to the Commencement of Development of each Phase (excluding Phase 0 Works but including the Enabling Works) a Construction Management Plan (CMP) excluding Phase 0 Works, for the relevant phase must be submitted to and approved by the Local Planning Authority in writing. The CEMP must include details of:

- (a) provision of boundary hoarding;
- (b) hours of operation;
- (c) means to control dust and emissions to air;
- (d) means to control noise and vibration
- (e) measures to prevent entrapment of mammals; has been submitted to, and approved in writing by, the Local Planning Authority.



The CMP should be in accordance with the GLA's Supplementary Planning Guidance 'Control of Dust and Emissions during Demolition and Construction'. The Development shall be constructed in accordance with the approved plan.

Reason: To ensure that the proposed Development does not have a significant adverse impact on the amenities of nearby residential properties and to minimise the impacts on local air quality. This condition is required to be pre-Commencement as the Construction Management Plan needs to be in place before any works take place and to mitigate against the impacts of the demolition and construction processes in accordance with Policies 29 and 34 of the Sutton Local Plan 2018.

- (21) If, during implementation of this Development, contamination is encountered which has not previously been identified, the contamination shall be fully assessed and a specific contaminated land assessment and associated remedial strategy shall be submitted to and agreed in writing by the Local Planning Authority before the additional remediation works are carried out. The agreed strategy shall be implemented in full prior to the completion of the Development hereby approved.

Reason: To prevent harm to human health and pollution of the environment in accordance with the aims and objectives of Policy 34 of the Sutton Local Plan 2018.

- (22) Prior to occupation of the relevant Phase of Development and upon completion of the agreed remediation works (pursuant to Condition 21), a verification report including quality assurance certificates that demonstrates the effectiveness of the remediation shall be submitted to and agreed in writing by the Local Planning Authority.

Reason: To prevent harm to human health and pollution of the environment in accordance with the aims and objectives of Policy 34 of the Sutton Local Plan 2018.

- (23) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a surface water drainage scheme for the Phase shall be submitted to and approved in writing by the Local Planning Authority. This scheme should include:

- (a) sustainable drainage principles and an assessment of the hydrological and hydro-geological context of the Development;
- (b) details of how the proposed surface water drainage scheme will be maintained;
- (c) a drainage scheme nominating the ownership, management and maintenance arrangements;
- (d) the use of SuDS and balancing ponds where possible;
- (e) details to demonstrate that the surface water run-off generated up to and including the 100 years critical storm plus climate change allowance, will not exceed the run-off from the undeveloped Site following the corresponding rainfall event.
- (f) details of modelled drained area and storage structures, together with a detailed drainage layout drawing that show the pipe numbers, gradients and pipe sizes which aligns with the drainage calculations results.

In addition, 'brownfield' major developments are required to reduce post development runoff rates for events up to and including the 1 in 100 year return period event plus 40% climate change allowance, to the calculated greenfield rate (calculated in accordance with IoH124) or, where demonstrated not feasible, to not more than three times the calculated greenfield rates for the Site. It is recommended that a SuDS treatment train is utilised to assist in this reduction. Each Phase of the Development shall only be implemented in accordance with the relevant approved details.

Prior to above ground works (other than Phase 0 Works and Enabling Works) evidence (photographs and installation contracts) shall be submitted to demonstrate that the sustainable drainage scheme for the Site has been completed in accordance with the submitted details.

The sustainable drainage scheme shall be managed and maintained thereafter in accordance with the agreed management and maintenance plan for all of the proposed drainage components.

Reason: To safeguard the public from surface water flood risk, protect the environment and respond to climate change, in accordance with Policies SI12 and SI13 of the London Plan 2021 and Policy



32 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (24) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a scheme to ensure the Development is flood resilient, in particular basement and lower ground levels and other finished floor levels, shall be submitted to, and approved in writing by, the Local Planning Authority. The scheme shall include a Flood Warning and Evacuation Plan. The scheme shall be implemented and subsequently maintained, in accordance with the scheme's timing/ phasing arrangements, or within any other period as may subsequently be agreed, in writing, by the Local Planning Authority.

Reason: Whilst we are satisfied at this stage that the proposed Development could be allowed in principle, the applicant will need to provide clarification of basement and lower ground levels to ensure that the proposed Development can go ahead without posing an unacceptable flood risk to future occupants, in accordance with Policies SI12 and SI13 of the London Plan 2021 and Policy 32 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (25) i) The Development hereby permitted shall incorporate security measures to minimise the risk of crime and to meet the specific security needs of the Development in accordance with Secured By Design. Details of these measures shall be submitted to and approved in writing by the local planning authority prior to commencement of superstructure works within each Phase, excluding Phase 0 Works and Enabling Works, and shall be implemented in accordance with the approved details prior to occupation.

ii) Prior to occupation a Secured by Design certificate build or its equivalent awarded by a Designing Out Crime Officer from the Metropolitan Police Service on behalf of the National Police Chiefs Council shall be submitted to and approved by the Local Planning Authority.

Reason: To promote the well-being of the area in accordance with Policy 28 of the Sutton Local Plan 2018 and Policy D11 of the London Plan 2021.

- (26) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a detailed Circular Economy Statement and Refuse Strategy shall be submitted to and approved in writing by the Local Planning Authority. The statement shall adhere to the principles set out in the Outline Circular Economy Statement. The relevant Phase of Development shall be carried out in accordance with those details.

Reason: In the interests of sustainable waste management and in order to maximise the re-use of materials in accordance with London Plan Policy SI7. The condition is required to be pre-Commencement to ensure that sustainability principles are considered at the earliest opportunity.

- (27) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works), an Air Quality Assessment (AQA), including an Air Quality Neutral assessment detailing how the Development has been designed to achieve air quality neutral standards, together with any necessary mitigation, shall be submitted to and approved in writing by the Local Planning Authority.

Should the Air Quality Neutral assessment show that the Development proposed will not be air quality neutral, it should confirm the excess tonnage that would need to be offset. The AQA shall also consider measures that can be implemented to improve local air quality as part of an air quality positive approach, in line with the latest GLA Air Quality Positive Guidance. The measures set out within the AQA shall be implemented in accordance with the details so approved, and thereafter retained, unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect and improve local air quality, in accordance with Policy 34 of the Sutton Local Plan 2018 and Policy SI1 of the London Plan 2021. The condition is required to be pre-Commencement to ensure that air quality principles are considered at the earliest opportunity.



- (28) Prior to Commencement of Development (other than Phase 0 Works and Enabling Works) a Site Wide Energy Strategy and supporting system description including the provisions made for interconnecting pipework to link the Phases within the Site into a future District Heating Network must be submitted to and approved in writing by the Local Planning Authority.

The Site Wide Energy Strategy shall demonstrate how the Development will achieve a minimum 35% reduction in carbon dioxide emissions over Part L of the Building Regulations (2013) (when applying updated SAP 10 emission factors).

Reason: To ensure that the Development provides renewable energy, in the interests of safeguarding the environment, in accordance with Policy SI3 of the London Plan 2021 and Policy 31 of the Sutton Local Plan 2018. The condition is required to be pre-Commencement to ensure that energy principles are considered at the earliest opportunity to maximise sustainability.

- (29) Prior to the commencement of any superstructure works within each Phase (other than Phase 0 Works and Enabling Works) a finalised Overheating Assessment Report and outcome of thermal dynamic modelling based on DSY1 2020 High 50 weather files for a representative number of units to show that the cooling strategy is in accordance with the Mayor's cooling hierarchy and that 100% of the proposed dwellings and corridors are compliant with the relevant TM59 criteria must be submitted and approved by the Local Planning Authority. The submitted information must take account of the detailed design stage and the option taken forward for supplying space heating, domestic hot water and cooling to the Development.

Reason: To ensure a comfortable living environment for residents of the Development in accordance with Policy SI4 of the London Plan 2021 and Policy 33 of the Sutton Local Plan 2018

- (30) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) an Energy Statement demonstrating how the each Phase will conform with the Site Wide Energy Strategy to be approved pursuant to Condition 28 must be submitted to and approved by the Local Planning Authority. The Energy Statement should include:

- (i) a finalised fabric and energy efficiency specification for the dwellings based on further detailed design taking account of best practice psi-values for the dwellings and Passivehaus;
- (ii) revised Energy Use Intensity (EUI) calculations based on a robust methodology and confirmation of Space Heating Demand calculations to show that the GLA guideline values have been met;
- (iii) if the Preferred Option for supplying space heating, domestic hot water and cooling to the dwellings is progressed in the form of an ambient loop network served by air source heat pumps (ASHPs), written confirmation from the heat network operator and the GLA that future connection to a wider district heat network serving Sutton Town Centre is commercially and technically viable;
- (iv) Site plans showing details of proposed pipework routes and space within the Site to accommodate for plate heat exchangers to enable future connection of the Site to the wider heat network serving Sutton Town Centre;
- (v) details of energy costs to occupants;
- (v) revised and updated carbon emissions reporting spreadsheets, corresponding 'as designed' SAP and SBEM worksheets which take into account the finalised energy strategy and carbon offset calculations.

Reason: to ensure measures are implemented to reduce any detrimental environmental impacts and deliver an energy efficient and sustainable development, in accordance with Policy SI2 and SI3 of the London Plan 2018 and Policy 31 of the Sutton Local Plan 2018. The condition is required to be pre-Commencement to ensure that energy principles are considered at the earliest opportunity to maximise sustainability.

- (31) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a piling method statement (detailing the depth and type of piling to be undertaken and the methodology by which such piling will be carried out, including measures to prevent and minimise the potential for damage to subsurface sewerage infrastructure, and the programme for the works) for the Phase has been submitted to and approved in writing by the Local Planning Authority in consultation with Thames Water. Any piling must be undertaken in accordance with the terms of the approved piling method statement.



Reason: To protect underground infrastructure and utilities during the construction process, in accordance with Policy 34 of the Sutton Local Plan. The condition is required to be pre-Commencement to ensure key infrastructure is protected

- (32) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a scheme for managing any borehole installed for the investigation of soils, groundwater or geotechnical purposes shall be submitted to and approved in writing by the Local planning Authority. The scheme shall provide details of how redundant boreholes are to be decommissioned and how any boreholes that need to be retained, post-Development, for monitoring purposes will be secured, protected and inspected.

Reason: To ensure that redundant boreholes are safe and secure, and do not cause groundwater pollution or loss of water supplies in line with the Environment Agency's Groundwater Protection: Principles and Practice, and in accordance with Policy 34 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met to prevent ground water pollution.

- (33) Prior to the Commencement of Development within each Phase (other than the Phase 0 Works and Enabling Works) a Dust Management Plan must be submitted to and approved in writing by the local planning authority. The DMP must include monitoring of dust deposition, dust flux, real-time PM10 continuous monitoring and/or visual inspections. This plan must incorporate the recommendations of (Table 6. Mitigation for a High-Risk Site) of the Air Quality Assessment and be in compliance with the GLA Control of Dust and Emissions during Construction and Demolition SPG.

Reason: To ensure air quality remains at an acceptable standard, in accordance with Policy 34 of the Sutton Local Plan 2018.

- (34) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) a detailed Whole Life Carbon Statement must be submitted to and approved in writing by the Local Planning Authority.

The finalised WLC Assessment must:

- (i) contain updated carbon emissions estimates for the whole Development which take account of the detailed design phase and provide a greater level of certainty compared to the Outline WLC assessment
- (ii) demonstrate compliance with the London Plan Policy SI 2 and GLA WLC Guidance
- (iii) give further consideration to the measures identified in Outline WLC Assessment and expand on these to achieve further reductions in line with industry progress towards decarbonisation over the build out period for the scheme
- (iv) outline additional opportunities which have been taken to reduce embodied carbon further
- (v) confirm proposals for verification of WLC performance at post-construction and how these may be secured through planning conditions.

Thereafter, the relevant Phase of Development shall be constructed in accordance with those details as approved by the Local Planning Authority.

Reason: In the interests of sustainable development and to maximise on-Site carbon dioxide savings, in accordance with London Plan Policy SI 2, SI 3, the Mayor's Energy Assessment guidance and Local Plan Policy 31. The condition is required to be pre-Commencement to maximise on-Site carbon dioxide savings

- (35) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) the developer must provide confirmation that either:

a) all wastewater, surface water and all water network upgrades required to accommodate the additional flows from the Development have been completed;



or

b) a housing and infrastructure phasing plan has been agreed with Thames Water to allow additional properties to be occupied.

Where a housing and infrastructure phasing plan is agreed, no occupation shall take place other than in accordance with the agreed housing and infrastructure phasing plan.

Reason: To avoid sewer flooding and potential pollution incidents, in accordance with Policy 34 of the Sutton Local Plan 2018. This condition is necessary prior to Commencement as it involves subterranean works.

- (36) In the event that an existing tree(s) is proposed to be retained as part of a future Reserved Matters Approval, tree protection measures must be implemented prior to commencement of demolition and construction works, in accordance with the British Standard BS5837: Trees in relation to design, demolition and construction. The protective measures shall only be removed on completion of the Development.

Reason: To ensure that trees to be retained will not be damaged during demolition or construction, in accordance with best practice and Policy 28 of the Sutton Local Plan 2018.

- (37) Prior to Commencement of Development of each Phase, excluding Phase 0 Works and Enabling Works, a scheme shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that the noise level of 35 dB LAeq,16 hour in living rooms and bedrooms during the daytime (0700 to 2300 hours) and 30 dB LAeq,8 hour during the night time (2300 to 0700 hours) in bedrooms, in accordance with BS8233:2014, shall not be exceeded. Noise levels in bedrooms should also not normally exceed 45 dB LAmax,F more than 10 times during the night time. Where these levels cannot be met with windows open appropriate acoustic ventilation should be provided so that the room can be sufficiently ventilated. The acoustic performance of any passive vent, variable speed mechanical air supply unit or whole house ventilation must be sufficient to ensure that the noise level standards given above are not compromised. Once agreed in writing by the Local Planning Authority the approved details shall be installed prior to the Development being occupied and retained thereafter.

Reason: To ensure that the proposed residential units are adequately protected from noise and to ensure an adequate level of internal amenity is provided for future residents, in accordance with Policy 29 of the Sutton Local Plan 2018.

- (38) Prior to above ground work within each Phase (other than Phase 0 Works and Enabling Works) a wind assessment shall be submitted and approved in writing by the Local Planning Authority. The assessment shall demonstrate that safe and amenable wind conditions can be secured. The Development shall only be constructed in accordance with the approved details. Any mitigation measures will be implemented through the construction phase and permanently retained thereafter.

Reason: In the interests of the health and safety of future occupiers and users of the Development, in accordance with Policy 29 of Sutton Local Plan.

- (39) Child playspace shall be delivered in accordance with the approved details submitted with the relevant Reserved Matters Approval, with the play space(s) associated with each phase made available prior to first occupation of the phase and thereafter retained.

Reason: To ensure the delivery of high quality children's play spaces, in accordance with Policy H9 of the Sutton Local Plan 2018 and Policy S4 of the London Plan 2021.

- (40) a) Prior to any above ground works within the first Phase (other than Phase 0 Works and Enabling Works) a Site Wide Car Parking Design and Management Plan (CPDMP) shall be submitted to and approved in writing by the Local Planning Authority.

The Site Wide CPDMP shall set out the key principles that will guide parking management across the Development and the long-term strategy for allocating, managing and monitoring on-Site



parking including parking for blue badge and electric vehicles. The Site Wide CPDMP will include measures of how on-street parking within the Development will be minimised and provided only where necessary.

b) Prior to the commencement of superstructure works within each Phase (other than Phase 0 Works and Enabling Works), a Phase Specific Car Parking Design and Management Plan (CPDMP) shall be submitted to and approved in writing by the Local Planning Authority. The Phase Specific CPDMP shall set out the strategy for implementing the Site Wide CPDMP within the relevant Phase.

Once the Phase Specific CPDMP is approved the car parking areas shall be constructed and marked out prior to the first occupation of the Plot(s) to which they relate, and thereafter retained permanently for the accommodation of vehicles of occupiers to the premises and not used for any other purpose.

Blue badge car parking spaces shall be constructed and marked out as accessible parking bays prior to the first occupation of each phase to which they relate and retained thereafter.

Reason: To ensure that sufficient off-street parking areas are provided and not to prejudice the free flow of traffic or conditions of general safety along the adjoining highway, to ensure and promote easier access for disabled persons, in accordance with Policies 36 and 37 of Sutton Local Plan 2018 and Policy T6 of the London Plan 2021.

- (41) Prior to above ground works (other than Phase 0 Works or Enabling Works) within any Phase, details and samples of all finishes and specifications of highway materials and surfaces associated with that Phase shall be submitted and approved in writing by the Local Planning Authority. This will include details and samples associated with temporary access works, and landscaping measures to prevent unauthorised parking. The Development shall only be constructed in accordance with the approved details and retained thereafter.

Reason: To ensure a satisfactory standard of highway surfaces within the Development, in accordance with Policy 28 of the Sutton Local Plan 2018.

- (42) Prior to occupation of each Phase, a Traffic Management Plan shall be submitted to and approved in writing by the Local Planning Authority. The Traffic Management Plan shall set out the proposed management arrangements for vehicles movement within the relevant Phase and shall include:

- (a) details of any shared surfaces; and
- (b) details of appropriate road markings and signage internal to the Site to regulate the movement of traffic, cyclists and pedestrians.

The Development shall only be constructed in accordance with the approved details and retained thereafter.

Reason: To prevent obstruction of the public highway surrounding the Site and the internal roads and maintain safety for road users, in accordance with Policy 36 of the Sutton Local Plan 2018.

- (43) Prior to Commencement of Development of each Phase (other than Phase 0 Works and Enabling Works) an Urban Greening Factor Statement must be submitted to the Local Planning Authority and approved in writing to demonstrate how the phase will contribute to:

- a) a Site-wide Urban Greening Factor target score of at least 0.4 using the Mayor of London's methodology referenced in Policy G5 of the London Plan 2021;
- b) a Green Space Factor of +0.2 compared to the baseline situation prior to development. The council's GSF scoring system set out in the council's 'Technical Guidance Note - Building a Sustainable Sutton' (June 2018) must be used for this purpose.

The measures set out shall be implemented prior to occupation of the final phase and thereafter retained.

Reason: To achieve the highest design and environmental standards possible, to protect and



enhance the borough's biodiversity and to reduce flood risk to and from new Development, in accordance with Policy 33 of the Sutton Local Plan 2018 and Policy G5 of the London Plan 2021.

- (44) Prior to above ground works within each Phase (other than Phase 0 Works and Enabling Works) details of cycle space provision for the proposed uses and associated visitor spaces must be submitted to and approved in writing by the Local Planning Authority.

Prior to the first occupation or use of each building the applicant must make the necessary provisions so that cycle parking provision is in accordance with the London Plan (as relevant to the building) to determine an appropriate level of cycle parking which should be to the minimum standards set out, secure and well-located. The cycle parking should be designed and laid out in accordance with the minimum recommendations and guidance contained in the London Cycling Design Standards, installed prior to first occupation / use within each building and permanently retained thereafter.

Reason: In the interests of promoting cycling as a sustainable and non-polluting mode of transport, in accordance with Policy 37 of the Sutton Local Plan 2018 and Policies D3 and T5 of the London Plan 2021.

- (45) Prior to commencement of superstructure works within each Phase (other than Phase 0 Works and Enabling Works) a detailed Delivery and Servicing Plan (DSP) for the proposed use(s) shall be submitted to and approved in writing by the Local Planning Authority. The DSP should provide details of the expected type and expected frequency of service vehicles including waste removal and for all uses, the hours within which they would arrive and depart, the intended locations for loading and unloading of vehicles and associated waiting and turning areas and access routes and show clear vehicle swept paths based on up to date information in relation to overall vehicle movements associated with the Development. The relevant Phase of Development shall only be constructed in accordance with the approved details and thereafter retained.

No residential building shall be occupied until the relevant Delivery and Servicing Plan has been submitted to and approved in writing by the Local Planning Authority. No permitted use within any non-residential unit shall be commenced until the relevant Delivery and Servicing Plan for the relevant Plot has been submitted and approved.

Reason: To ensure that vehicle movements associated with the use hereby permitted remains consistent and that the use shall not represent any unacceptable level, type, location or timing of vehicle movements such that the safety of pedestrians and cyclists and the efficiency of bus operations shall be unduly prejudiced, nor that residential amenity will be unduly affected.

- (46) Prior to above ground works within each Phase (other than Phase 0 Works and Enabling Works), a Refuse Strategy comprising full details of the refuse and recycling storage and collection must be submitted to and approved in writing by the Local Planning Authority. The Refuse Strategy should make reference to the Council's Recycling and Waste Planning Guidance 2023. The approved details must be implemented in full prior to first occupation of that phase to which they relate and retained thereafter.

Reason: To avoid harm to the character and appearance of the street scene and local area and to ensure adequate provision of refuse and recycling facilities in the interests of amenity for future and neighbouring occupiers, in accordance with Policy 28 of the Sutton Local Plan 2018.

- (47) Prior to above ground works (other than Phase 0 Works and Enabling Works) within each Phase details of and location of Electric Vehicle charging infrastructure for the provision of electric vehicles associated with the Phase shall be submitted to and agreed in writing with the Local Planning Authority.

The details and location of such provision should take into consideration the availability of electrical supply and should therefore be designed making reference to information held by the local distribution network operator. Charging points for electric vehicles must be installed and made available for use with at least 20% of the total number of car parking spaces equipped with active electric vehicle charging points with all other spaces equipped with passive provision for electrical



vehicle charging.

Reason: To provide charging facilities for electric vehicles and to encourage the uptake of electric vehicles, in accordance with Policy T6 of the London Plan 2021.

- (48) Prior to the commencement of superstructure works (within each Phase (other than Phase 0 Works and Enabling Works), the following details (as relevant to the reserved matters approval for the Phase) shall be submitted to and approved by the Local Planning Authority and the works subsequently implemented in accordance with the details approved:

- a) drawings/details of any rooftop plant, screening and parapet finishes, presented at 1:20 scale.
- b) specification of balconies and/or winter gardens, communal entrances, vehicular entrances and gates, duplex entrances and typical bay (showing window reveals, frames, cills and headers) at a scale of 1:20 (in plan, section and elevation)
- c) details of all rainwater pipes, flues or grills where these are visible on the external façade of the building
- d) samples of bricks/materials finishes to all external elevations (e.g. brick slips, RAL colour samples, metal work finishes etc.) to be presented for all buildings within the Phase.

Reason: To protect or enhance the character and amenity of the area and ensure an exemplary finish to the Development hereby approved, in accordance with Policy 28 of the Sutton Local Plan 2018 and Policy D4 of the London Plan 2021.

- (49) No building hereby permitted shall be occupied until a detailed maintenance plan of the proposed living roofs, including who shall be responsible for the maintenance of the proposed roofs for that relevant building, has been submitted to and approved by the Local Planning Authority.

Reason: In the interests of maintaining the longevity and effectiveness of the living roofs so that they deliver the environmental benefits, in accordance with Policy of the Sutton Local Plan 2018 and Policies G1 and G5 of the London Plan 2021.

- (50) Prior to the occupation of the Development within each Phase, full details of hard and soft landscaping for that Phase shall be submitted to and approved in writing by the Local Planning Authority. All hard and soft landscaping and tree planting shall be carried out in accordance with the approved details and to a reasonable standard in accordance with the relevant recommendations of appropriate British Standards (in particular, BS 3882: Specifications for Topsoil, Recommendations (2015) and BS 8545: Trees from Nursery to Independence in the Landscape, Recommendations (2014) or other recognised codes of good practice). The works shall be carried out prior to the occupation of any part or relevant phase of the Development or in accordance with the timetable agreed with the Local Planning Authority. Any tree(s) or plants that (within a period of five years after planting) are removed, die, or (in the opinion of the Local Planning Authority) are damaged or defective shall be replaced as soon as is reasonably practicable with others of a similar size/species/number as originally approved, unless the Local Planning Authority gives its consent to any variation.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs in accordance with Policy 28 of the Sutton Local Plan 2018.

- (51) Prior to first occupation of each Phase a landscaping management plan must be submitted to and approved in writing by the Local Planning Authority. The plan for each Phase of the Development shall set out how the planting will be managed for a minimum of two years from practical completion of the phase, to ensure full and successful establishment of plants and trees. Any trees or shrubs which die within five years of completion of the phase, shall be replaced with the same species, unless otherwise approved in writing by the Local Planning Authority. The plans shall identify all landscaped areas that will be under communal management. The planting shall be thereafter managed in accordance with the approved management plan.

Reason: To ensure the provision, establishment and maintenance of a reasonable standard of landscape in accordance with the approved designs in accordance with Policy 28 of the Sutton



Local Plan 2018.

- (52) Prior to first occupation of each Phase a public realm management plan must be submitted to and approved in writing by the Local Planning Authority. The plan for each Phase of the Development shall set out how the public realm will be managed including its maintenance.

Reason: To ensure that the public realm provides and maintains space that is attractive and accessible and contributes to the highest possible standards of comfort, good acoustic design, security and ease of movement, in accordance with Policy 25 of the Sutton Local Plan 2018 and Policy D8 of the London Plan 2021.

- (53) Prior to occupation within each Phase an overarching wayfinding strategy for that Phase must be submitted to and approved in writing by the Local Planning Authority detailing the design approach to wayfinding infrastructure to be delivered.

Reason: In the interests of public safety, wayfinding and promoting active travel, in accordance with Policy T3 of the London Plan 2021.

- (54) Prior to first occupation of any non-residential unit hereby permitted with a commercial kitchen, details of any ventilation system for the removal and treatment of cooking odours from any commercial catering are to be submitted to and approved in writing by the Local Planning Authority.

The approved details shall be fully implemented before the first use of the relevant non-residential unit and shall thereafter be permanently retained in an efficient manner.

Reason: To safeguard the appearance of the premises and minimise the impact of cooking smells, odours and noise, in accordance with Policies 28 and 29 of the Sutton Local Plan 2018.

- (55) Prior to commencement of superstructure works within a Plot where uses falling within Use Class F.2(b) and/or Sui Generis (drinking establishment with or without expanded food provision and/or venue for live music performances) are proposed, a noise assessment and mitigation scheme (NMS) shall be submitted to, and approved in writing by, the Local Planning Authority. The NMS will set out all relevant assessment assumptions (including assumed operating conditions, adopted source data and calculations) and will demonstrate that the following noise criteria will be met under all reasonably foreseeable circumstances:

- i. 53 dB (L10,5min) in the 63Hz centre frequency octave band and 41 dB L10,5min in the 125Hz centre frequency octave band in existing or consented habitable rooms under open window conditions between the hours of 07:00 and 23:00.
- ii. 49 dB L10,5min in the 63Hz centre frequency octave band and 37 dB L10,5min in the 125Hz centre frequency octave band existing or consented habitable rooms under open window conditions between the hours of 23:00 and 07:00.

The approved NMS shall be fully implemented in the subsequent development. Plant and equipment approved in the NMS will be maintained and operated in accordance with the approved details.

Reason: To ensure that the proposed and surrounding residential properties and other noise sensitive premises in the vicinity of Site are adequately protected from noise nuisance, in accordance with Policy 29 of the Sutton Local Plan 2018.

- (56) Prior to the operation of any plant the following must be submitted and approved by the Local Planning Authority.

- a) The rating level of the noise determined by the cumulative sound emissions of any plant shall not exceed the levels stated in table 10.1 of the AECOM Limited Noise Survey and Preliminary Acoustic Assessment of March 2024 Project number: 60712562.
- b) The noise levels shall be measured or predicted 1m externally to any window of a habitable room at the nearest residential facade during any normal mode of operation. Measurements and assessment shall be made according to British Standard 4142:2014



- c) The cumulative sound emissions of any emergency plant should not exceed the levels stated in table 10.2 of the AECOM Limited Noise Survey and Preliminary Acoustic Assessment of March 2024 Project number: 60712562. The noise levels shall be measured or predicted 1m externally to any window of a habitable room at the nearest residential facade during any normal mode of operation. Measurements and assessment shall be made according to British Standard 4142:2014
- d) The testing of any emergency plant shall only be carried out for up to 1 hour per calendar month during typical working hours 09.00-17.00 Monday - Friday not including public holidays.

Reason: To ensure that the proposed and surrounding residential properties and other noise sensitive premises in the vicinity of Site are adequately protected from noise nuisance, in accordance with Policy 29 of the Sutton Local Plan 2018.

- (57) a) Each application for reserved matters shall be accompanied by a detailed Whole Life-Cycle Carbon Statement in line with the GLA's Whole Life-Cycle Assessment Guidance, which shall be submitted to and approved in writing by the Local Planning Authority. The statement shall adhere to the principles set out in the outline Whole Life-Cycle Carbon Statement. The Development shall be carried out in accordance with the details so approved.
- b) Prior to the first occupation of the last building within each Phase, the post-construction tab of the GLA's whole life carbon assessment template should be completed accurately and in its entirety in line with the GLA's Whole Lifecycle Carbon Assessment Guidance. The post-construction assessment should provide an update of the information submitted at planning submission stage, including the whole life carbon emission figures for all life-cycle modules based on the actual materials, products and systems used. This should be submitted to the GLA at: [zerocarbonplanning@london.gov.uk](mailto:zerocarbonplanning@london.gov.uk) along with any supporting evidence as per the guidance. Confirmation of a satisfactory submission to the GLA shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the last building within each Phase.

Reason: In the interests of sustainable development and to maximise on-Site carbon dioxide savings, in accordance with Policy 31 of the Sutton Local Plan 2018 and Policy SI2 of the London Plan 2021.

- (58) a) Each application for reserved matters shall be accompanied by a detailed Circular Economy Statement in line with the GLA's Circular Economy Statement Guidance, which shall be submitted to and approved in writing by the Local Planning Authority. The statement shall adhere to the principles set out in the outline Circular Economy Statement. The Development shall be carried out in accordance with the details so approved.
- b) Prior to the first occupation of the last building within each Phase, a Post Completion Report setting out the predicted and actual performance against all numerical targets in the relevant Circular Economy Statement shall be submitted to the GLA at: [CircularEconomyLPG@london.gov.uk](mailto:CircularEconomyLPG@london.gov.uk), along with any supporting evidence as per the GLA's Circular Economy Statement Guidance. The Post Completion Report shall provide updated versions of Tables 1 and 2 of the Circular Economy Statement, the Recycling and Waste Reporting form and Bill of Materials. Confirmation of a satisfactory submission to the GLA shall be submitted to and approved in writing by the Local Planning Authority prior to occupation of the last building within each Phase.

Reason: In order to maximise the re-use of materials and in the interests of sustainable waste management, in accordance with Policy SI7 of the London Plan 2021.

- (59) Prior to first occupation of the last building within each Phase, a completed Water Efficiency Calculator for New Dwellings must be submitted to the Local Planning Authority and approved in writing to show that internal potable water consumption for each of the dwellings will meet a target water use of 110 litres per person per day (l/p/d) based on the Government's national calculation method for water efficiency for the purposes of Part G of the Building Regulations. The Water Efficiency Calculator should be accompanied by details of the location and type of all appliances or fittings that use water, the capacity or flow rate of any equipment and any rainwater or greywater collection systems incorporated as part of the Development. The Development shall be carried out in accordance with the approved details and the approved details shall be complied with for the life



of the Development.

Reason: To conserve water supplies in an area of water stress, in accordance with Policy 33 of the Sutton Local Plan 2018.

- (60) All Non-Road Mobile Machinery (NRMM) of net power of 37kW and up to and including 560kW used during the course of the demolition, Site preparation and construction phases shall comply with the emission standards set out in chapter 7 of the GLA's supplementary planning guidance "Control of Dust and Emissions During Construction and Demolition" dated July 2014 (SPG), or subsequent guidance. Unless it complies with the standards set out in the SPG, no NRMM shall be on Site, at any time, whether in use or not, without the prior written consent of the local planning authority. The developer shall keep an up to date list of all NRMM used during the demolition, Site preparation and construction phases of the Development on the online register at <https://nrmm.london/>

Reason: In order to reduce the environmental impact of the construction and the impact on the amenities of neighbouring residents and to accord with Policies 29 and 34 of the Sutton Local Plan 2018.

- (61) No satellite antenna, apparatus or plant of any sort (including structures or plant in connection with the use of telecommunication systems or any electronic communications apparatus) shall be erected on the side or roof of any buildings unless and until details of their size and location have previously been submitted to and approved by the Local Planning Authority. The relevant part of the Development shall be carried out in accordance with the approved details and thereafter retained.

Reason: In the interest of visual amenity and to accord with Policy 28 of the Sutton Local Plan 2018.

- (62) The lead contractor of each Phase shall be signed up to the Considerate Constructors Scheme (CCS) and its published Code of Considerate Practice, and the details of (i) the membership, (ii) contact details, (iii) working hours as stipulated under the Control of Pollution Act 1974, and (iv) Certificate of Compliance, shall be clearly displayed on the Site so that they can be easily read by passing members of the public, and those details shall thereafter be maintained on display throughout the duration of the works forming the subject of this permission

Reason: To mitigate the impact of construction work upon the levels of amenity that neighbouring and future occupiers should reasonably expect to enjoy and to ensure accordance with Policies 29 and 34 of the Sutton Local Plan 2018. It is necessary for this condition to prevent the Commencement of Development until the requirements of the condition have been met because the timing of compliance is fundamental to the decision to grant planning permission.

- (63) The Phase 0 Works shall be limited to the demolition of the bungalows known as 58 and 59 Elm Grove, including structures within the curtilage, to grade level only. No works of excavation are permitted other than to temporarily secure essential services. Upon completion of the demolition works the Site must be secured using a safety hoarding.

Reason: To ensure the Site is left in a satisfactory condition in terms of safety and visual amenity, in accordance with Policy 28 and 34 of the Sutton Local Plan 2018.

- (64) The Phase 0 Works shall be carried out in accordance with the relevant sections of the Outline Construction Logistics Plan dated 14 March 2024, prepared by Markides (Project Number: 22131; Doc Number: CLP01)

Reason: To ensure that the proposed Development does not interfere with the free flow of traffic and conditions of safety on the public highway, and to ensure the Development process does not have a significant adverse impact on the amenities of nearby residential properties in accordance with Policies 29 and 36 of the Sutton Local Plan 2018 and Policy T7 of the London Plan 2021.

- (65) The Development, excluding Phase 0 Works and Enabling Works, may not be begun unless:
- a) a biodiversity gain plan has been submitted to the planning authority; and
  - b) the planning authority has approved the plan



Reason: To deliver the legally-binding 10% biodiversity net gain, in accordance with Section 13 of the Environment Act 2021, as enacted in Section 90A of the Town and Country Planning Act 1990 (as amended), as well as Policy 26 of the Sutton Local Plan 2018 and Policy G6 of the London Plan 2021.

- (66) Prior to rising above the damp proof course of each Phase of the Development (other than in relation to Phase 0 Works and Enabling Works) hereby permitted, a scheme for wildlife and nesting features for that relevant Phase shall be submitted to and approved in writing by the Local Planning Authority.

The scheme must include full details of type and numbers of each feature, location (shown on plan and elevation views if located on buildings) of each feature, height above ground (if applicable) and nearest external lighting.

Features must be installed in accordance with the approved scheme prior to occupation of the relevant building and thereafter retained in perpetuity.

Reason: To enhance the biodiversity value of the land in accordance with Policy 26 of the Sutton Local Plan 2018 and Policy G6 of the London Plan 2021.

- (67) Prior to installation of any lighting features for each Phase of the Development hereby permitted, a pre-and post-Development lighting scheme for that relevant Phase shall be submitted to and approved in writing by the Local Planning Authority. The lighting scheme will include:

Pre-Development light levels, including ambient lighting from the surrounds, presented as 1m centre spot values down to 0.1lux, with isolux contour lines showing light degradation;

Post-Development light levels, presented as 1m centre spot values down to 0.1lux, with isolux contour lines showing light degradation and 3D luminance in-the-scene modelling;

Assessment of external lighting and light spill from any buildings through windows / security lighting etc.

The technical details of the luminaires and columns to be used, including their location, type, shape, dimensions and expected luminance output and specifically explaining what design attributes have been chosen to minimise light pollution;

The provision of vertical spill impacts, shown in cross-sectional views on a 1m centre vertical and horizontal scale.

Lighting will be designed and installed to minimise impacts on biodiversity, as outlined in Guidance Note 08/23 Bats and Artificial Lighting (Institute of Lighting Professionals and the Bat Conservation Trust).

Reason: To protect the biodiversity value of the land and adjacent land, in accordance with Policy 26 of the Sutton Local Plan 2018 and Policy G6 of the London Plan 2021.

- (68) Ducting shall be provided to all dwellings to facilitate full fibre or equivalent broadband connectivity infrastructure.

Reason: To ensure sufficient digital connectivity, in accordance with Policy SI 6 of the London Plan 2021.











### **Informative(s):**

( 1) This approval only grants permission under Section 57 of the Town and Country Planning Act 1990. Further approval or consent may be required by other legislation, in particular the Building Regulations and you should contact Building Control on 020 8770 5000 before proceeding with the work.

( 2) Should you require details of the consideration of the application that has led to this decision, the file may be inspected under the provisions of the Local Government (Access to Information) Act 1985 via the following link: <https://www.sutton.gov.uk/propertyapplicationsearch>

( 3) The permission hereby granted confers no rights on the applicant to encroach upon, extend over or otherwise enter upon property not in his ownership for any purposes connected with the implementation of this planning permission.

( 4) This application has been assessed against the relevant policies of the London Plan 2021 and Sutton's Local Plan 2018. The proposal is in accordance with Section 38(6) of the Planning and Compulsory Purchase Act 2004 (as amended) and for this reason planning permission is granted.

( 5) Preventing Damage to the Public Highway:

Care should be taken by all applicants to ensure that no damage is caused to the public highway adjacent to their site during demolition and/or construction work. The Council will always seek to recover any costs incurred in repairing or making good such damage from the owner of the development site, except where they are otherwise able to identify the person(s) who caused the damage and are willing to accept the recoverable costs.

#### **Pre-commencement Highways Condition Surveys:**

To avoid the above costs arising, and BEFORE ANY WORK COMMENCES on your site, PLEASE SEND A BLANK EMAIL to [highways@cs@sutton.gov.uk](mailto:highways@cs@sutton.gov.uk) to receive further details on how to arrange a pre-commencement photographic survey of the public highway conditions around your site. Where the Council decides that a survey is necessary a Returnable Deposit and Inspection Fee (Highways to advise) will be payable to London Borough of Sutton. The pre-commencement survey will ensure you are not charged for any damage which existed prior to commencement of your works. If you fail to arrange a pre-commencement survey it will be assumed that any damage to the highway was caused by your own activities and you will be charged the full cost of repair. Once the site works are completed you need to contact Highways to arrange for a post construction inspection to be carried out. If there is no further damage, the case will be closed, and your deposit refunded. If damage is found to have occurred, the Council will carry out the repairs, and the costs will be charged to you, whether less or more than the deposit value.

( 6) Where applicable the developer/applicant is hereby advised to remove all site notices on or near the site that were displayed in pursuant to the application.

( 7) Your work may be affected by the provisions of the Party Wall Act 1996 which requires adjoining owners to be formally notified by the owner. This is not a planning matter and further details are issued by the Government <https://www.gov.uk/guidance/party-wall-etc-act-1996-guidance>.

### **Community Infrastructure Levy (CIL)**



The Council consider that this permission is liable for a contribution under the Community Infrastructure Levy (CIL).

Before work commences there are certain forms which you must complete and return to [planningobligations@sutton.gov.uk](mailto:planningobligations@sutton.gov.uk). Please note that penalty surcharges will be added to contributions should CIL regulations not be followed.

Further details of what to submit and timescales in relation to the Community Infrastructure Levy can be found online at - <https://www.gov.uk/guidance/community-infrastructure-levy>

CIL forms can be found at -

[https://www.planningportal.co.uk/info/200126/applications/70/community\\_infrastructure\\_levy/5](https://www.planningportal.co.uk/info/200126/applications/70/community_infrastructure_levy/5)

**Building Regulations**

Please note that this is a planning permission only and you may also require approval under the Building Regulations. If you are in any doubt about this you can get further information via <http://www.sutton.gov.uk/buildingcontrol> or by emailing [buildingcontrol@sutton.gov.uk](mailto:buildingcontrol@sutton.gov.uk).



24th January 2025

Spencer Palmer  
Strategic Director  
Environment, Housing and Neighbourhoods



**LONDON BOROUGH OF SUTTON  
APPENDIX TO PLANNING DECISION NOTICES  
NOTES TO APPLICANTS**

### **Appeals to the Secretary of State**

If you are aggrieved by the decision of your local planning authority to refuse permission for the proposed development, or to grant it subject to conditions, you can appeal to the Secretary of State for the Environment under Section 78 of the Town and Country Planning Act 1990 (as amended).

Before you decide to appeal you may wish to consider amending your proposal to meet the Council's reasons for refusing permission. The Council's planning staff are always prepared to discuss with you ways to avoid an appeal by submitting an alternative application. This may involve a charge in line with our pre-application service ([https://www.sutton.gov.uk/info/200155/planning/1113/pre-application\\_planning\\_advice](https://www.sutton.gov.uk/info/200155/planning/1113/pre-application_planning_advice))

If you want to appeal, then you must do so within 6 months of the date of this notice. The Secretary of State can allow a longer period for giving notice of an appeal, but he will not normally be prepared to use this power unless there are special circumstances which excuse the delay in giving notice of appeal.

If you intend to submit an appeal that you would like examined by inquiry then you must notify the Local Planning Authority and Planning Inspectorate ([inquiryappeals@planninginspectorate.gov.uk](mailto:inquiryappeals@planninginspectorate.gov.uk)) at least 10 days before submitting the appeal. [Further details are on GOV.UK.](#)

You can appeal using a form that you can get from The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN. Customer Support Unit, Tel: 0117 372 6372. Appeal forms and guidance can also be downloaded from the Planning Inspectorate's website <https://www.gov.uk/appeal-planning-decision>.

Alternatively, the Planning Inspectorate have introduced an online appeals service which you can use to make your appeal at <https://www.gov.uk/appeal-planning-decision>. The Inspectorate will publish details of your appeal on the internet. This may include a copy of the original planning application form and relevant supporting documents supplied to the local planning authority by you or your agent, together with the completed appeal form and information you submit to the Planning Inspectorate. Please ensure that you only provide information, including personal information, that you are happy will be made available to others in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so.

The Secretary of State need not consider an appeal if it seems to him that the local planning authority could not have granted planning permission for the proposed development or could not have granted it without the conditions they imposed, having regard to the statutory requirements, to the provisions of any development order and to any directions given under a development order.

In practice, the Secretary of State does not refuse to consider appeals solely because the local planning authority based their decision on a direction given by him.

### **Purchase Notices**

If either the local planning authority or the Secretary of State for the Environment refuses permission to develop land or grants it subject to conditions, the owner may claim that they can neither put the land to a reasonably beneficial use in its existing state nor render the land capable of a reasonably beneficial use by carrying out of any development which has been or would be permitted.

In these circumstances, the owner may serve a purchase notice on the Council (District Council, London Borough Council, or Common Council of the City of London) in whose area the land is situated. This notice will require the Council to purchase their interest in the land in accordance with the provision of Part VI of the Town and Country Planning Act 1990.



## **Compensation**

In certain circumstances compensation may be claimed from the local planning authority if permission is refused or granted subject to conditions by the Secretary of State appeal or reference of the application to him.

These circumstances are set out in section 114 and related provisions of the Town and Country Planning Act 1990 (as amended).

## **The Party Wall etc. Act 1996**

Anyone intending to carry out work described in the Act **MUST** give adjoining owners at least 2 months notice in writing of their intentions.

The Act covers:- (i) work to be carried out directly to an existing party wall or structure

(ii) new building at or astride the boundary line between properties

(iii) excavation within 3 or 6 metres of a neighbouring building or structure, depending on the depth of the hole or foundations

If you are not sure whether the Act applies to work that you are planning, you should seek professional advice. A free explanatory booklet is available from ODPM Free Literature, PO Box 236, Wetherby, West Yorkshire, LS23 7BN. Tel 0870 1226236 e-mail [odpm@twoten.press.net](mailto:odpm@twoten.press.net)



**APPENDIX 4**  
**CONFIRMATORY DEED**



DATED 20[X]

(1) THE LONDON BOROUGH OF SUTTON

(2) [ ]

(3) [ ]

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CONFIRMATORY AGREEMENT  
under  
Section 106 of the Town and Country Planning Act 1990  
relating to  
DEVELOPMENT OF LAND AT ELM GROVE ESTATE, 216-  
220 HIGH STREET, SUTTON SM1 1NU

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THIS CONFIRMATORY AGREEMENT is made on

20[X]

**BETWEEN:-**

- (1) **THE LONDON BOROUGH OF SUTTON** of the Civic Offices, St Nicholas Way, Sutton SM1 1EA (the "Council"); and
- (2) [ ] (Company Number [ ]) whose registered office is at [ ] ("Owner")
- (3) [ ] (Company Number [ ]) whose registered office is at [ ] ("Mortgagee")

**WHEREAS:-**

1. The Developer submitted the Planning Application to the Council for planning permission to carry out the Development on the Site.
2. By virtue of the 1990 Act the Council is the Local Planning Authority for the area in which the Site is situated.
3. On 4 September 2024 the Council's Planning Committee resolved that the Council may grant planning permission for the Development subject to (inter alia) Condition 3 which requires the completion of the Agreed Form S106 Agreement (or Agreed Form Confirmatory Agreement(s) as appropriate) prior to Commencement of Development other than the Phase 0 Works and the Enabling Works within the Site (such defined terms as defined within the Planning Permission).
4. The Planning Permission was granted on [ ] at which time there was no third party (other than the Council) with an interest in the Site willing to enter into the Agreed Form S106 Agreement. Subsequently the Principal Agreement was completed on [ ] with the intention of binding the Bound Land (as defined in the Principal Agreement) with the planning obligations set out in the Agreed Form Section 106 Agreement and satisfying Condition [X] in respect of [reference to land bound].
5. The Owner(s) is/are the registered proprietor(s) of a [freehold/leasehold] interest(s) in the Additional Bound Land and registered at the Land Registry under the title number[s] [ ]. The Owner(s) is/are entering into this Confirmatory Agreement with the intention of binding its/their aforementioned interest(s) in the Additional Bound Land with the planning obligations set out in Schedules 1 to 12 (inclusive) of the Principal Agreement and satisfying Condition [XX] in respect of [reference to land to be bound].
6. The Council is the Local Planning Authority by whom the planning obligations hereby created and the Principal Agreement are enforceable.

**OPERATIVE PROVISIONS**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Save where provided otherwise, words and expressions used in this Confirmatory Agreement have the meaning assigned to them in the Principal Agreement.
- 1.2 For the purposes of this Confirmatory Agreement the following words and expressions have the meanings assigned below:-

"Additional Bound Land" means that part of the Site shown [ ] on the Plan

"Agreed Form Confirmatory Agreement" means the draft confirmatory deed pursuant to Section 106 of the 1990 Act securing planning obligations in the form at Schedule [X] of the Agreed Form S106 Agreement



<b>"Agreed Form S106 Agreement"</b>	means the draft deed pursuant to Section 106 of the 1990 Act securing planning obligations in the form at [x-ref to where appended]
<b>"Plan"</b>	means the plan attached at Appendix 1 of this Confirmatory Agreement
<b>"Planning Permission"</b>	means as defined in the Principal Agreement
<b>"Principal Agreement"</b>	means the agreement dated [ ] between (1) the Council; (2) [ ]; and (3) [ ] entered into pursuant to section 106 of the 1990 Act and other relevant powers

## 2. OPERATION OF THIS CONFIRMATORY AGREEMENT

- 2.1 This Confirmatory Agreement is supplemental to the Principal Agreement and is entered into pursuant to Section 106 of the 1990 Act (as amended) and to the extent that the covenants in this Confirmatory Agreement are not made under Section 106 of the 1990 Act they are made under Section 106A of the 1990 Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers so enabling.
- 2.2 The obligations, covenants, undertakings and agreements contained in this Confirmatory Agreement and given to the Council are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council as the local planning authority for the area within which the Additional Bound Land is situated.
- 2.3 The Owner covenants with the Council that from the date of this Confirmatory Agreement it is bound by the obligations, covenants and undertakings on the part of the Owner contained in the Principal Agreement in so far as they relate to the Additional Bound Land and that such obligations, covenants and undertakings are planning obligations pursuant to and for the purposes of section 106 of the 1990 Act and bind the Additional Bound Land and the said obligations, covenants and undertakings on the part of the Owner are entered into by the Owner with the intent that they shall be enforceable not only against the Owner but also against any successors in title to the Additional Bound Land or assigns of the Owner and/or any person claiming through or under the Owner an interest or estate in the Additional Bound Land that is capable of being bound under Section 106 of the 1990 Act as if that person had been an original covenanting party in respect of such interest for the time being held by it.
- 2.4 The Council covenants with the Owner in respect of the Additional Bound Land to perform the obligations, covenants and undertakings on its part contained in the Principal Agreement.

## 3. MODIFICATION TO THE PRINCIPAL AGREEMENT

- 3.1 The parties agree that with effect from the date of this Confirmatory Agreement the Principal Agreement shall be modified so that the definition of "Bound Land" in Clause 1 of the Principal Agreement shall be construed to include the Additional Bound Land.

## 4. LOCAL LAND CHARGE REGISTRATION

- 4.1 This Confirmatory Agreement shall be registered as a Local Land Charge.

## 5. LEGAL COSTS

- 5.1 The Owner will on completion of this Confirmatory Agreement pay the Council's reasonable legal costs incurred in the preparation of this Confirmatory Agreement.



6. **JURISDICTION**

- 6.1 This Confirmatory Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England.

7. **DELIVERY**

- 7.1 The provisions of this Confirmatory Agreement (other than this Clause which shall be of immediate effect) shall be of no effect until this Confirmatory Agreement has been dated.

8. **[MORTGAGEE'S CONSENT**

- 8.1 The Mortgagee(s) acknowledge and declare that this Confirmatory Agreement has been entered into by the Owner(s) with their consent and that the Additional Bound Land shall be bound by the obligations contained in this Confirmatory Agreement and that the security of the mortgage over the Additional Bound Land shall take effect subject to this Confirmatory Agreement PROVIDED THAT the Mortgagee(s) shall otherwise have no liability under this Confirmatory Agreement unless they take possession of the Site (or part) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner(s)]

**IN WITNESS** whereof the parties hereto have executed this Confirmatory Agreement as a deed the day and year first before written



was duly affixed to this Deed  
in the presence of:-

AUTHORISED OFFICER.....

acting by

Full Name (Director/Secretary)

4



**APPENDIX 1**  
**PLAN**



**APPENDIX 5**  
**HIGHWAYS WORKS PLANS**





- DO NOT SCALE OFF THIS DRAWING
- NOTES
- 1 This drawing is indicative and subject to discussions with local & national highway authorities. This design is also subject to confirmation of land ownership, topography, location of statutory services, detailed design and traffic modelling.
  - 2 This drawing is based upon drawing number 3548B-LB-77-00-D-L-200000 supplied by Levitt Bernstein Ltd and Markides Associates shall not be liable for any inaccuracies or deficiencies.
  - 3 Markides Associates accept no responsibility for any unauthorised amendments to this drawing. Do not rely on dimensions scaled from this plan.

KEY

NEW FOOTWAY CONSTRUCTION

FOR INDICATIVE EXTENT OF  
THROWLEY WAY BUS STOP  
WORKS. SEE DRAWING D151-P04

NEW FOOTWAY CONSTRUCTION

ROAD MARKINGS WOULD NEED TO BE  
AMENDED TO SUPPORT DELIVERY OF  
THROWLEY WAY ALTERNATIVE BUS  
STOP (SEE DRAWING D151-P04)

EXISTING BUS STOP TO BE REMOVED AND REPLACED WITH CARRIAGEWAY

Revision History				
No.	Description	Author	Check	Date
1	Issue for Information	AM	AM	12/02/24
2	For Information	AM	AM	26/02/24
3	For Information	AM	AM	12/02/24

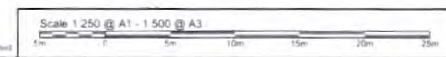
S2 - FOR INFORMATION

LONDON BOROUGH OF SUTTON



ELM GROVE ESTATE REGENERATION

THROWLEY WAY  
INDICATIVE HIGHWAY WORKS EXTENT







Northern Gateway site shown for illustrative purposes only

EXTENT OF WHITE BUILDING SITE TO BE SECURED FOR ADOPTION TO ALLOW FOR ENLARGED TURNING HEAD

DO NOT SCALE OFF THIS DRAWING

**NOTES**

1. This drawing is indicative and subject to discussions with local & national highway authorities. This design is also subject to confirmation of land ownership, topography, location of statutory services, detailed design and traffic modelling.
2. This drawing is based upon drawing number 35488-LB-ZZ-00-D-L-200000 supplied by Levitt Bernstein Ltd and Markides Associates shall not be liable for any inaccuracies or deficiencies.
3. Markides Associates accept no responsibility for any unauthorised amendments to this drawing. Do not rely on dimensions scaled from this plan.
4. Highway boundary information has been provided by London Borough of Sutton and has been transcribed by Markides Associates onto an Ordnance Survey base. Markides Associates accepts no liability for the accuracy of the data provided and the highway boundary information shown is subject to checks by a licensed conveyancer.

**Standard Design Vehicle (SDV)**

Overall Length	4.800m
Overall Width	2.000m
Overall Body Height	1.900m
Min Body Ground Clearance	1.100m
Track Width	2.000m
Load in axle line	4.00t
Wall to Wall Turning Radius	8.500m

**KEY**

- 2.4m x 25m VISIBILITY SPY
- HIGH STREET & THROWLEY WAY PEDESTRIAN LINKS
- EXTENT OF WHITE BUILDING TO BE SECURED FOR ADOPTION

Revision History				
No.	Description	By	Check	Date
01	Issued for Information	AL	MS	01/01/24
02	For Information	AL	MS	01/01/24
03	For Information	AL	MS	01/01/24
04	For Information	AL	MS	01/01/24
05	For Information	AL	MS	01/01/24

**S2 - FOR INFORMATION**

**LONDON BOROUGH OF SUTTON**

**MARKIDES ASSOCIATES**

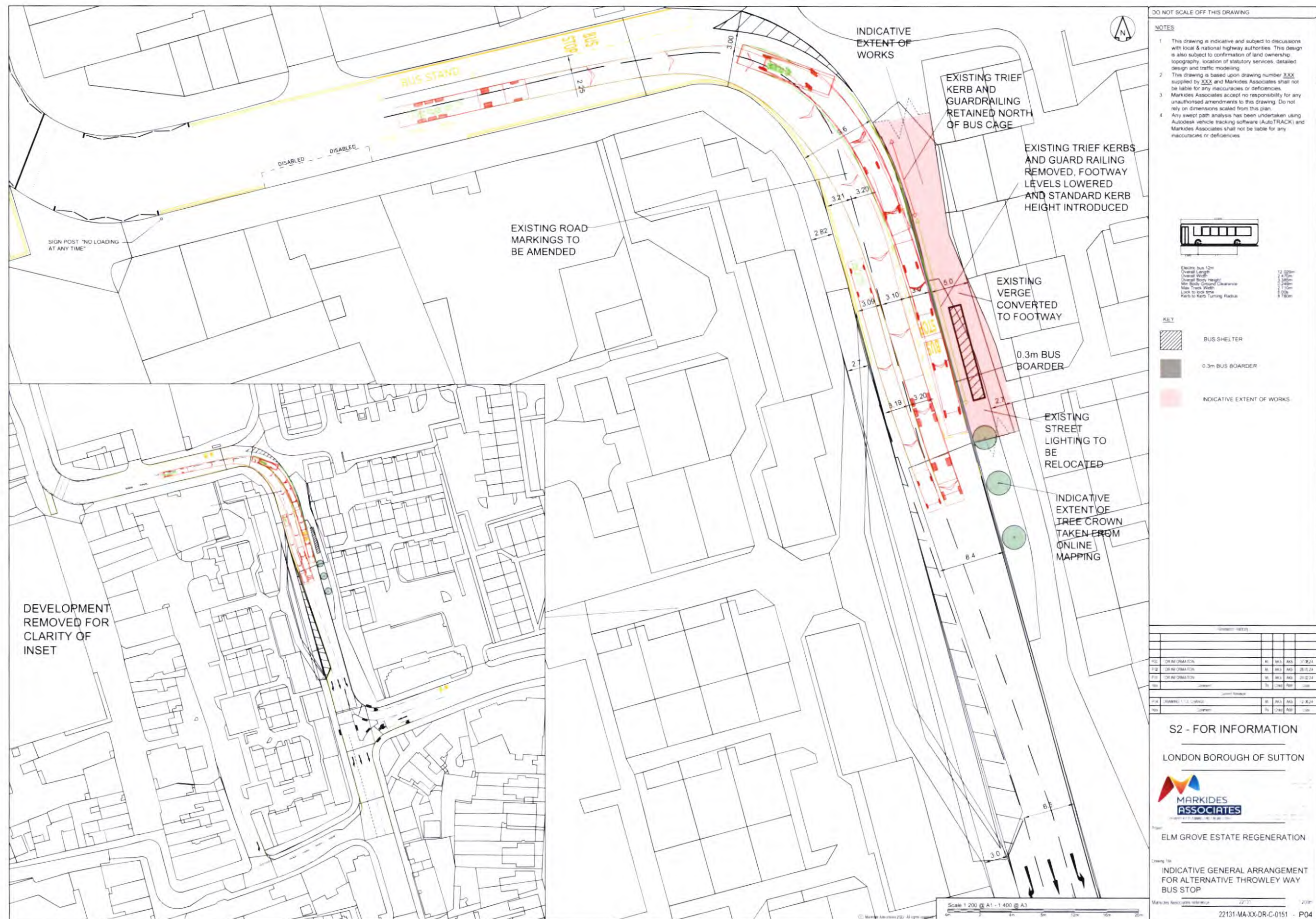
**ELM GROVE ESTATE REGENERATION**

**ELM GROVE INDICATIVE GENERAL ARRANGEMENT**

Scale 1:200 @ A1 - 1:400 @ A3

22131-MA-XX-DR-C-0102 - P02







**APPENDIX 6**  
**PEDESTRIAN ACCESS PLAN**





**Notes**

1. Do not scale this drawing.
2. All dimensions must be checked on site and any discrepancies verified with the architect.
3. Unless shown otherwise, all dimensions are to structural surfaces.
4. Drawing to be read with all other issued information. Any discrepancies to be brought to the attention of the architect.
5. This drawing is the copyright of Levitt Bernstein and may not be copied, altered or reproduced in any form, or passed to a third party without license or written consent.
6. This document is prepared for the sole use of London Borough of Sutton and no liability to any other persons is accepted by Levitt Bernstein. Levitt Bernstein accepts no liability for use of this drawing by parties other than the party for whom it was prepared or for purposes other than those for which it was prepared.

This is not a construction drawing, it is unsuitable for the purpose of construction and must not on account be used as such.

- Site Area = 8908.25 sqm = 0.890 ha
- Application boundary
  - Primary vehicular route (including emergency and service route)
  - Pedestrian route
  - Pedestrian/cycle route
  - Outer building footprint of development zone excluding projection zone
  - Arrowhead indicating direction of movement
  - No Through Route
  - Maximum deviation on block width from outer development plot
  - Proposed pedestrian & cycle route access
  - Proposed pedestrian route access
  - Proposed vehicular access (including emergency and service access)
  - Access to off street parking

**Notes**

The locations identifying vehicular access points and vehicular, pedestrian and cycle route alignments are subject to detailed designs at RMA stage

P05	15/08/24	Key and note amended	RC
P04	01/03/24	OPA Submission	RC
P03	07/02/24	Design Freeze - Issue 3	RC
P02	18/01/24	Design Freeze - Issue 2	RC
P01	12/01/24	Design Freeze	JH

Project Name  
**Elm Grove**  
Estate regeneration

Drawing Number  
3465B - LB - XX - 00 - D - A - 106200

Drawing  
Parameter Plan 3\_Access & Movement

Purpose of issue  
For Approval

Scale  
As indicated @ A1

Client  
London Borough of Sutton

London  
Thames Studios  
2-4 Thame Villas  
London SE1 7PA  
+44 (0)20 7275 7878

Manchester  
Bentley House  
18 Lower Byron Street  
Manchester M3 4AP  
+44 (0)161 869 8740

Levitt Bernstein  
levittbernstein.co.uk



**APPENDIX 7  
PUBLIC REALM PLAN**







was duly affixed to this Agreement  
in the presence of:-

AUTHORISED OFFICER.....

DIRECTOR.....

DIRECTOR.....

53341965-1



## APPENDIX 3 – PLAN





Notes

1. Do not scale this drawing.
2. All dimensions must be checked on site and any discrepancies verified with the architect.
3. Unless shown otherwise, all dimensions are to structural surfaces.
4. Drawing to be read with all other issued information. Any discrepancies to be brought to the attention of the architect.
5. This drawing is the copyright of Levitt Bernstein and may not be copied, altered or reproduced in any form, or passed to a third party without license or written consent.
6. This document is prepared for the sole use of London Borough of Sutton and no liability to any other persons is accepted by Levitt Bernstein. Levitt Bernstein accepts no liability for use of this drawing by parties other than the party for whom it was prepared or for purposes other than those for which it was prepared.

This is not a construction drawing, it is unsuitable for the purpose of construction and must on no account be used as such.



Site Area = 8908.25 sqm = 0.890 ha

P04	01/03/24	OPA Submission	RC
P03	07/02/24	Design Freeze - Issue 3	RC
P02	18/01/24	Design Freeze - Issue 2	RC
P01	12/01/24	Design Freeze	JH
Rev	Date	Description	Drawn / Checked

Elm Grove

Estate regeneration

Drawing number	Rev
3465B - LB - ZZ - ZZ - D - A - 101000	P04
Drawing	

Site Location Plan

Purpose of issue	First issue date
For Information	15/12/2023
Scale	
As indicated @ A3	
Client	
London Borough of Sutton	

levittbernstein.co.uk

London  
Thane Studios  
2-4 Thane Villas  
London N7 7PA  
+44 (0)20 7275 7676

Manchester  
Bonded Warehouse  
18 Lower Byrom Street  
Manchester M3 4AP  
+44 (0)161 669 8740



## APPENDIX 4 – CPO INTERESTS



Map referred to in The London Borough of Sutton (Elm Grove Estate)  
Compulsory Purchase Order 2024

Key  
Land to be acquired

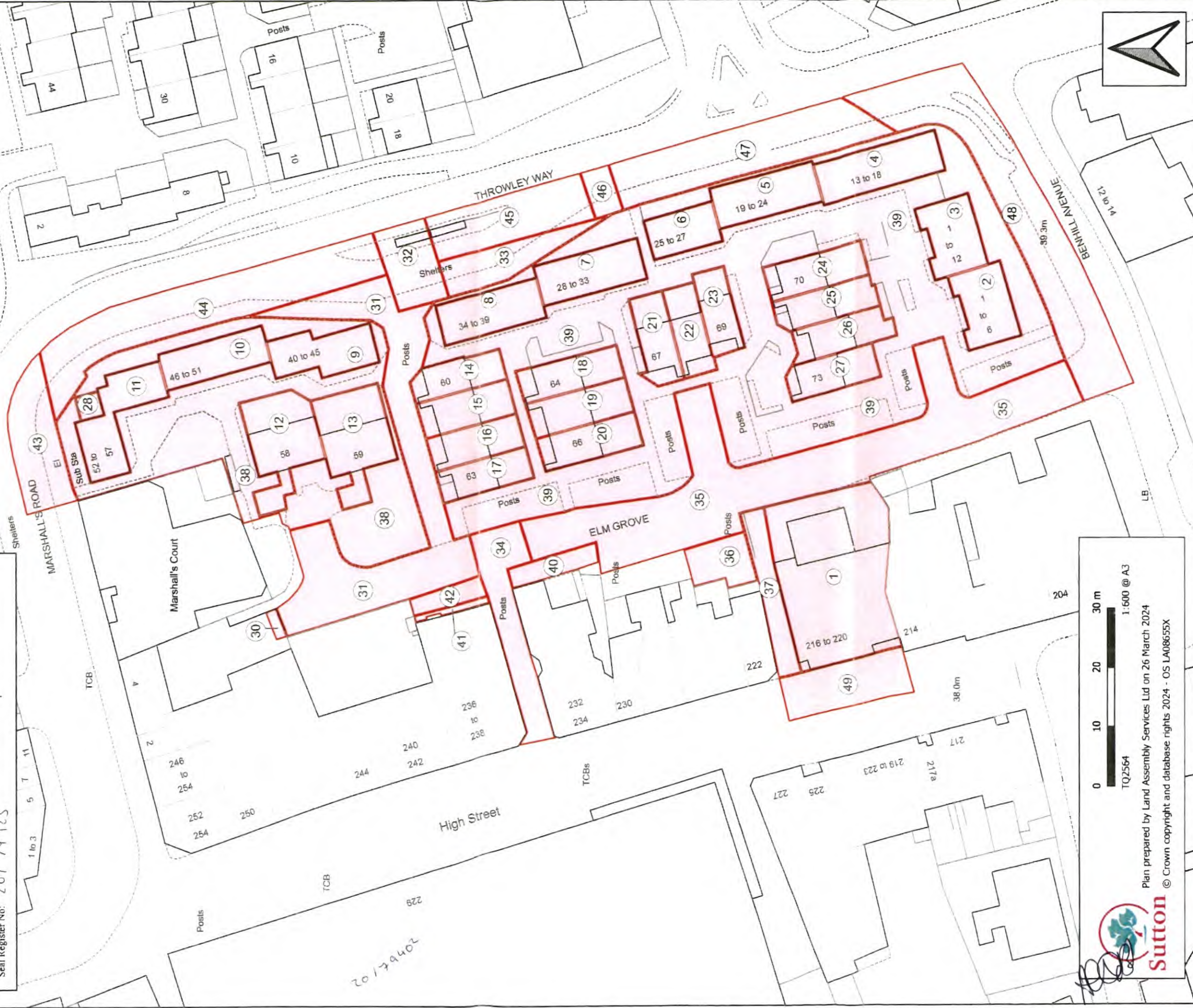
The COMMON SEAL of THE MAYOR AND BURGESSES OF  
THE LONDON BOROUGH OF SUTTON  
was hereunto affixed on the 28<sup>th</sup> day of March 24  
in the presence of:

Signature: *[Signature]*

Name: ANNA STAINES

Authorised Signatory in accordance with Standing Order 41.

Seal Register No: 20179123



Plan prepared by Land Assembly Services Ltd on 26 March 2024  
© Crown copyright and database rights 2024 - OS LA08655X



## **APPENDIX 5 – AGREED FORM CONFIRMATORY AGREEMENT**



**DATED**

**20[X]**

**(1) THE LONDON BOROUGH OF SUTTON**

**(2) [ ]**

**(3) [ ]**

---

**CONFIRMATORY AGREEMENT**

**under**

**Section 106 of the Town and Country Planning Act 1990  
relating to**

**DEVELOPMENT OF LAND AT ELM GROVE ESTATE, 216-  
220 HIGH STREET, SUTTON SM1 1NU**

---



**Pinsent Masons**



## CONTENTS

	Page
1 DEFINITIONS AND INTERPRETATION	1
2 OPERATION OF THIS CONFIRMATORY AGREEMENT	2
4 MODIFICATION TO THE PRINCIPLE AGREEMENT	2
4 LOCAL LAND CHARGE REGISTRATION	2
5 LEGAL COSTS	2
6 JURISDICTION	3
7 DELIVERY	3
8 MORTGAGEE'S CONSENT	3
APPENDIX 1 - PLAN	5



THIS CONFIRMATORY AGREEMENT is made on

20[X]

**BETWEEN:-**

- (1) **THE LONDON BOROUGH OF SUTTON** of the Civic Offices, St Nicholas Way, Sutton SM1 1EA (the "Council"); and
- (2) [ ] (Company Number [ ]) whose registered office is at [ ] ("Owner")
- (3) [ ] (Company Number [ ]) whose registered office is at [ ] ("Mortgagee")

**WHEREAS:-**

1. The Developer submitted the Planning Application to the Council for planning permission to carry out the Development on the Site.
2. By virtue of the 1990 Act the Council is the Local Planning Authority for the area in which the Site is situated.
3. On 4 September 2024 the Council's Planning Committee resolved that the Council may grant planning permission for the Development subject to (inter alia) Condition 3 which requires the completion of the Agreed Form S106 Agreement (or Agreed Form Confirmatory Agreement(s) as appropriate) prior to Commencement of Development other than the Phase 0 Works and the Enabling Works within the Site (such defined terms as defined within the Planning Permission).
4. The Planning Permission was granted on [ ] at which time there was no third party (other than the Council) with an interest in the Site willing to enter into the Agreed Form S106 Agreement. Subsequently the Principal Agreement was completed on [ ] with the intention of binding the Bound Land (as defined in the Principal Agreement) with the planning obligations set out in the Agreed Form Section 106 Agreement and satisfying Condition [X] in respect of [reference to land bound].
5. The Owner(s) is/are the registered proprietor(s) of a [freehold/leasehold] interest(s) in the Additional Bound Land and registered at the Land Registry under the title number[s] [ ]. The Owner(s) is/are entering into this Confirmatory Agreement with the intention of binding its/their aforementioned interest(s) in the Additional Bound Land with the planning obligations set out in Schedules 1 to 12 (inclusive) of the Principal Agreement and satisfying Condition [XX] in respect of [reference to land to be bound]
6. The Council is the Local Planning Authority by whom the planning obligations hereby created and the Principal Agreement are enforceable.

**OPERATIVE PROVISIONS**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Save where provided otherwise, words and expressions used in this Confirmatory Agreement have the meaning assigned to them in the Principal Agreement.
- 1.2 For the purposes of this Confirmatory Agreement the following words and expressions have the meanings assigned below:-

**"Additional Bound Land"**

means that part of the Site shown [ ] on the Plan

**"Agreed Form Confirmatory Agreement"**

means the draft confirmatory deed pursuant to Section 106 of the 1990 Act securing planning obligations in the form at Schedule [X] of the Agreed Form S106 Agreement



<b>"Agreed Form S106 Agreement"</b>	means the draft deed pursuant to Section 106 of the 1990 Act securing planning obligations in the form at [x-ref to where appended]
<b>"Plan"</b>	means the plan attached at Appendix 1 of this Confirmatory Agreement
<b>"Planning Permission"</b>	means as defined in the Principal Agreement
<b>"Principal Agreement"</b>	means the agreement dated [ ] between (1) the Council; (2) [ ]; and (3) [ ] entered into pursuant to section 106 of the 1990 Act and other relevant powers

## 2. OPERATION OF THIS CONFIRMATORY AGREEMENT

- 2.1 This Confirmatory Agreement is supplemental to the Principal Agreement and is entered into pursuant to Section 106 of the 1990 Act (as amended) and to the extent that the covenants in this Confirmatory Agreement are not made under Section 106 of the 1990 Act they are made under Section 106A of the 1990 Act, Section 111 of the Local Government Act 1972, Section 1 of the Localism Act 2011 and all other powers so enabling.
- 2.2 The obligations, covenants, undertakings and agreements contained in this Confirmatory Agreement and given to the Council are planning obligations for the purposes of section 106 of the 1990 Act and are enforceable by the Council as the local planning authority for the area within which the Additional Bound Land is situated.
- 2.3 The Owner covenants with the Council that from the date of this Confirmatory Agreement it is bound by the obligations, covenants and undertakings on the part of the Owner contained in the Principal Agreement in so far as they relate to the Additional Bound Land and that such obligations, covenants and undertakings are planning obligations pursuant to and for the purposes of section 106 of the 1990 Act and bind the Additional Bound Land and the said obligations, covenants and undertakings on the part of the Owner are entered into by the Owner with the intent that they shall be enforceable not only against the Owner but also against any successors in title to the Additional Bound Land or assigns of the Owner and/or any person claiming through or under the Owner an interest or estate in the Additional Bound Land that is capable of being bound under Section 106 of the 1990 Act as if that person had been an original covenanting party in respect of such interest for the time being held by it.
- 2.4 The Council covenants with the Owner in respect of the Additional Bound Land to perform the obligations, covenants and undertakings on its part contained in the Principal Agreement.

## 3. MODIFICATION TO THE PRINCIPAL AGREEMENT

- 3.1 The parties agree that with effect from the date of this Confirmatory Agreement the Principal Agreement shall be modified so that the definition of "Bound Land" in Clause 1 of the Principal Agreement shall be construed to include the Additional Bound Land.

## 4. LOCAL LAND CHARGE REGISTRATION

- 4.1 This Confirmatory Agreement shall be registered as a Local Land Charge.

## 5. LEGAL COSTS

- 5.1 The Owner will on completion of this Confirmatory Agreement pay the Council's reasonable legal costs incurred in the preparation of this Confirmatory Agreement.



6. **JURISDICTION**

- 6.1 This Confirmatory Agreement is governed by and interpreted in accordance with the law of England and Wales and the parties submit to the exclusive jurisdiction of the courts of England.

7. **DELIVERY**

- 7.1 The provisions of this Confirmatory Agreement (other than this Clause which shall be of immediate effect) shall be of no effect until this Confirmatory Agreement has been dated.

8. **[MORTGAGEE'S CONSENT**

- 8.1 The Mortgagee(s) acknowledge and declare that this Confirmatory Agreement has been entered into by the Owner(s) with their consent and that the Additional Bound Land shall be bound by the obligations contained in this Confirmatory Agreement and that the security of the mortgage over the Additional Bound Land shall take effect subject to this Confirmatory Agreement PROVIDED THAT the Mortgagee(s) shall otherwise have no liability under this Confirmatory Agreement unless they take possession of the Site (or part) in which case it too will be bound by the obligations as if it were a person deriving title from the Owner(s)]

**IN WITNESS** whereof the parties hereto have executed this Confirmatory Agreement as a deed the day and year first before written



THE COMMON SEAL of the  
**MAYOR AND BURGESSES OF THE  
LONDON BOROUGH OF SUTTON**

was duly affixed to this Deed  
in the presence of:-

MEMBER OF  
THE COUNCIL.....

AUTHORISED OFFICER.....

Executed as a Deed by [ ]

acting by

.....  
Signature of Director

.....  
Full Name (Director)

.....  
Full Name (Director/Secretary)

.....  
Signature of Director/Secretary



**APPENDIX 1**

**PLAN**



**APPENDIX 6 – AGREED FORM CONFIRMATORY UNDERTAKING**



**DATED**

**20[X]**

**CONFIRMATORY UNILATERAL UNDERTAKING GIVEN BY DEED**

**BY**

**THE LONDON BOROUGH OF SUTTON**

**(IN ITS CAPACITY AS LANDOWNER)**

---

**pursuant to Section 106 of the Town and  
Country Planning Act 1990 and all other  
powers enabling in relation to development of  
land at Elm Grove Estate, 216-220 High Street,  
Sutton SM1 1NU**

---



**Pinsent Masons**



**THIS CONFIRMATORY UNILATERAL UNDERTAKING** is given on

20[X]

**BY:-**

- (1) **THE LONDON BOROUGH OF SUTTON** of the Civic Offices, St Nicholas Way, Sutton SM1 1EA (in its capacity as landowner and hereinafter referred to as the "**Owner**");

**IN FAVOUR OF:**

- (2) **THE LONDON BOROUGH OF SUTTON** of the Civic Offices, St Nicholas Way, Sutton SM1 1EA (in its capacity as Local Planning Authority and hereinafter referred to as the "**Council**").

**WHEREAS:-**

- (A) The Council is the local planning authority for the area in which the Site is situated.
- (B) On 15 March 2024 the Planning Application was submitted to the Council for planning permission to carry out the Development on the Site. At that time there was no third party with an interest in the Site willing to enter into the Agreed Form S106 Agreement. On 4 September 2024 the Council resolved to grant the Planning Permission subject to (inter alia) the completion of a unilateral undertaking by The London Borough of Sutton as landowner.
- (C) Subsequently the Principal Undertaking was given by the Owner on [ ] with the intention of binding the Owner's interests in the Bound Land and the Planning Permission was granted on [ ].
- (D) Since the date of the Principal Undertaking the Owner has acquired a [freehold/leasehold] interest(s) in the Additional Bound Land and registered at the Land Registry under the title number[s] [ ]. The Owner is giving this Confirmatory Undertaking with the intention of binding its aforementioned interest(s) in the Additional Bound Land with the obligations as set out in the Principal Undertaking.

**OPERATIVE PROVISIONS:-**

**1. DEFINITIONS AND INTERPRETATION**

- 1.1 Save where provided otherwise, words and expressions used in this Confirmatory Undertaking have the meaning assigned to them in the Principal Undertaking.

- 1.2 In this Confirmatory Undertaking the following expressions shall have the following meanings:-

"Additional Bound Land" means that part of the Site shown [ ] on the Additional Bound Land Plan

"Additional Bound Land Plan" means the plan attached to this Deed at Appendix 1

"Planning Permission" means as defined in the Principal Undertaking

"Principal Undertaking" means the unilateral undertaking dated [ ] given by the Owner to the Council as local planning authority and entered into pursuant to section 106 of the 1990 Act

**2. OPERATION OF CONFIRMATORY UNDERTAKING**

- 2.1 This Confirmatory Undertaking is supplemental to the Principal Undertaking and is entered into pursuant to Section 106 of the 1990 Act.

- 2.2 The Owner covenants that with effect from the date of this Confirmatory Undertaking:



- 2.2.1 the obligations, covenants, undertakings, restrictions and agreements undertaken by the Owner pursuant to clause 5 of the Principal Undertaking shall bind the Owner's [freehold/leasehold] interests in the Additional Bound Land and shall be enforceable by the Council as local planning authority under Section 106(3) of the 1990 Act against any freehold successors in title to or assigns of the Owner to the Additional Bound Land and/or any person claiming a freehold or leasehold interest through or under the Owner; and
- 2.2.2 it shall treat the Principal Undertaking as having been modified so that the definition of "Bound Land" in Clause 1 of the Principal Undertaking shall be construed to include the Owner's interest(s) in the Additional Bound Land.

3. **LOCAL LAND CHARGE**

This Confirmatory Undertaking is a local land charge and is intended to be registered as such.

**IN WITNESS** whereof the Owner has executed this Deed the day and year first before written.



$$\begin{array}{c} ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \\ ) \end{array}$$

J. ....

) \_\_\_\_\_



**APPENDIX 1**

**ADDITIONAL BOUND LAND PLAN**



## APPENDIX 7 – UNDERTAKING PLAN







IN WITNESS of which this Deed  
has been duly executed as a  
Deed and has been delivered  
once dated.

THE COMMON SEAL of the  
**MAYOR AND BURGESSES OF THE  
LONDON BOROUGH OF SUTTON**  
(acting in its capacity as landowner) was  
duly affixed to this Agreement  
in the presence of:

PM LLP  
21.03.25

~~MEMBER OF THE COUNCIL~~

AUTHORISED OFFICER



Seal No. 20179402



AUDREY GRAHAM BOLT