

DATED

17 DECEMBER .

2012

- (1) LONDON LEGACY DEVELOPMENT CORPORATION
- (2) THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF TOWER HAMLETS
- (3) WICK LANE (LUX) S.A.R.L.
- (4) THE ROYAL BANK OF SCOTLAND PLC

PLANNING OBLIGATION BY AGREEMENT

made pursuant to section 106 of the Town and Country Planning Act 1990 and section 202 of the Localism Act 2011 and the London Legacy Development Corporation (Planning Functions) Order 2012 and all other powers enabling

relating to the development of land at 419 Wick Lane Fish Island London E3 2JG

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THIS AGREEMENT is made on

2012

BETWEEN:-

- (1) **LONDON LEGACY DEVELOPMENT CORPORATION** of ~~23rd Floor, One Churchill Place, Canary Wharf, London E14 5LN~~ ("Local Planning Authority");
Level 10, 1 Stratford Place, Naboroull
Montfichet Road, London E20 1EJ
- (2) **THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF TOWER HAMLETS** of the Town Hall, Mulberry Place, 5 Clove Crescent, London E14 2BG ("Council"); and
- (3) **WICK LANE (LUX) S.A.R.L.** (Incorporated in Luxembourg) of 34 rue Michel Rodange L-2430 Luxembourg Grand Duchy of Luxembourg ("Owner"); and
- (4) **THE ROYAL BANK OF SCOTLAND PLC** (Company registration no. SC90312) of 36 St Andrew Square Edinburgh EH2 2YB ("Chargee").

RECITALS

WHEREAS:-

- (A) The Local Planning Authority exercises the functions of the local planning authority for the Site pursuant to section 202 of the Localism Act 2011 and the London Legacy Development Corporation (Planning Functions) Order 2012 and is the local planning authority by whom the obligations contained in this Agreement are enforceable.
- (B) The Council is a local authority for the purposes (inter alia) of the Local Government Act 1972 and the 1974 Act and further retains certain functions in respect of the area within which the Site is situated, including functions in respect of affordable housing. Accordingly, the Parties agree that it is appropriate for the Council to receive and apply the Off Site Affordable Housing Contribution.
- (C) The Owner is the freehold owner of the Site registered at the Land Registry under title number NGL93331.
- (D) The Chargee has the benefit of a charge over the Site. The Chargee enters into this Agreement to consent to the Site being subject to the provisions of this Agreement.
- (E) The Planning Application was submitted to the Olympic Delivery Authority on 3 April 2012 under application number 12/90164/FUM.
- (F) On 24 July 2012 the Olympic Delivery Authority resolved to grant the Planning Permission subject to the completion of this Agreement. This Agreement was not completed prior to the Olympic Delivery Authority's planning functions being transferred to the Local Planning Authority on 1 October 2012. On 23 October 2012 the Local Planning Authority resolved to grant the Planning Permission subject to the completion of this Agreement.
- (G) Accordingly, the Parties have agreed to enter into this Agreement in order to secure the planning obligations contained in it pursuant to the provisions of section 106 of the 1990 Act, section 202 of the Localism Act 2011, the London Legacy Development Corporation (Planning Functions) Order 2012, Section 16 of the 1974 Act and all other enabling powers.

OPERATIVE PROVISIONS:-

1. INTERPRETATION

- 1.1 In this Agreement (which shall include the Recitals and Schedules hereto) the following words and expressions have the following meanings:-

"1974 Act"

Greater London Council (General Powers) Act 1974;

"1990 Act"	Town and Country Planning Act 1990;
"Agreement"	this agreement made pursuant to section 106 of the 1990 Act and other enabling powers;
"Business Day"	a day other than a Saturday or Sunday or public holiday in England or the period between 24 December and 1 January inclusive;
"Class"	a use class specified in the Town and Country Planning (Use Classes) Order 1987 as in force at the date of this Agreement;
"Comply"	implement, comply, fulfil and/or discharge or procure implementation, compliance, fulfilment and/or discharge and "Compliance" shall be construed accordingly;
"Consent"	any of the following: approval, agreement, licence, authorisation, confirmation, certification, expression of satisfaction, consent, permission or any other kind of authorisation however expressed;
"Development"	the development of the Site pursuant to the Planning Permission and all other operations and/or works authorised by the Planning Permission;
"Employment Floorspace"	Generating the 1,118 square metres of floor space situated on the ground floor of the Development as shown edged blue on the plan attached at Appendix 3 to this Agreement;
"Expert"	the expert appointed in accordance with the provisions of Clause 11 to determine a dispute;
"First Occupation"	the first occupation of the Employment Generating Floorspace but not including occupation by a person or persons engaged in construction, fitting out or repair or occupation for marketing or display or occupation for security operations.
"Indexed"	in relation to any sum that it is to be increased in accordance with the all items Index of Retail Prices issued by the Office for National Statistics or if the same shall cease to be published such other index as may be substituted or be reasonably equivalent as agreed between the parties PROVIDED THAT in the event that the index decreases the sum shall not fall below the figures set out in this Agreement;
"Off Site Affordable Housing Contribution"	the sum of £557,324.00 (five hundred and fifty seven thousand, three hundred and twenty four pounds) (Indexed);
"Parties"	the parties to this Agreement and the word " Party " shall mean any one of them;
"Planning Application"	the application for planning permission for change of use of upper floors (1-6) from live-work units (Class sui generis) to 112 self-contained residential units (Class C3) submitted to the Olympic Delivery Authority and registered with the Olympic Delivery Authority on 3 April 2012 with reference number 12/90164/FUMODA, and subsequently transferred to the Local Planning Authority and given reference number 12/00165/FUM;

"Planning Permission"	the planning permission granted pursuant to the Planning Application substantially in the form of the draft attached at Appendix 2;
"Residential Units"	The 112 self-contained residential units permitted to be built on the Site pursuant to the Planning Permission and "Residential Unit" means any one them;
"S73 Consent"	a planning permission granted by the Local Planning Authority following the determination of a planning application made pursuant to section 73 of the 1990 Act to carry out the Development without complying with a condition or conditions subject to which the Planning Permission was granted;
"Site"	the whole of the land known as 419 Wick Lane Fish Island, London E3 2JG as shown edged red on the plan contained in Appendix 1.

1.2 In this Agreement:-

1.2.1 unless otherwise indicated, reference to any:-

- (a) Clause, Schedule or Appendix is to a clause of, schedule of or appendix to this Agreement;
- (b) Paragraph is to a paragraph of a Schedule of this Agreement;
- (c) reference within a Schedule to a paragraph is to a paragraph of that Schedule; and
- (d) Recital is to a recital to this Agreement.

1.2.2 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 enacted at the date of this Agreement;
- (b) any orders, regulations, instruments or other subordinate legislation made or issued under that statute or statutory provision; and
- (c) in each case shall include any re-enactment thereof for the time being in force and any modifications or amendments thereof for the time being in force;

1.2.3 headings, the table of contents and titles to the plans are for reference purposes only and are not incorporated into this Agreement and shall not be deemed to be an indication of the meaning of the parts of the Agreement to which they relate;

1.2.4 any notice, notification, Consent, request, statement or details to be made, given or submitted under or in connection with this Agreement shall be made, given or submitted in writing;

1.2.5 references to the Site include any part of it;

1.2.6 references to the Local Planning Authority include its successors to the functions of the local planning authority;

1.2.7 references to the Council include its statutory successors to the functions pursuant to which the Council has entered into this Agreement;

1.2.8 references to the Owner include:

- (a) persons deriving title from the Owner (subject to clause 2.7);
- (b) persons claiming through or under the Owner an interest or estate in the Site (subject to clause 2.7); and
- (c) the Owner's successors, assigns, transferees and persons for the time being assuming the relevant obligations and/or rights of the Owner;

1.2.9 "including" means "including without limitation";

1.2.10 unless otherwise indicated references to the singular include the plural and references to the plural include the singular and words importing any gender include every gender;

1.2.11 unless otherwise indicated words importing persons include firms, companies, other corporate bodies or legal entities and vice versa; and

1.2.12 where two or more people form a single Party to this Agreement the obligations, covenants and undertakings on the part of that Party may be enforced against them all jointly or against each of them individually.

1.3 The Interpretation Act 1978 shall apply to this Agreement.

1.4 The "Agreement" includes the Schedules and Recitals to this Agreement.

1.5 If any provision of this Agreement is held to be illegal invalid or unenforceable the legality validity and enforceability of the remainder of the Agreement is (if and to the extent that it may properly and lawfully be construed as such) to be unaffected.

2. **EFFECT OF THIS AGREEMENT**

2.1 This Agreement is made pursuant to:-

2.1.1 section 106 of the 1990 Act;

2.1.2 section 111 of the Local Government Act 1972;

2.1.3 sections 1 and 202 of the Localism Act 2011;

2.1.4 section 16 of the Greater London Council (General Powers) Act 1974; and

2.1.5 all other powers so enabling.

2.2 The Local Planning Authority is the local planning authority having the power to enforce the planning obligations contained in this Agreement.

2.3 So far as the obligations, covenants and undertakings in this Agreement are given by or to the Council then the same are entered into pursuant to the relevant powers referred to in Clause 2.1 and such obligations, covenants and undertakings shall be enforceable by or against the Council.

2.4 Subject to Clause 2.7, the obligations, covenants and undertakings on the part of the Owner in this Agreement are planning obligations in so far as they are capable of being lawfully made pursuant to and for the purpose of section 106 of the 1990 Act and (so far as the same are entered into with or given to the Council) are obligations, covenants or undertakings in pursuance of section 16 of the 1974 Act and are given so as to bind the Owner's freehold interest in the Site (as referred to in Recital C) and with the intent that they shall be enforceable by the Local Planning Authority and/or (so far as the same are entered into with or given to the Council) by the Council not only against the Owner but also against successors in title to or assigns of or transferees of the Owner and/or any person claiming through or under the Owner an interest or estate in the Site as if that person had been an original covenanting party and insofar as any such obligations, covenants or

undertakings are not capable of falling within section 106 of the 1990 Act the same are entered into as obligations, covenants or undertakings in pursuance of section 202 of the Localism Act 2011.

- 2.5 Save to the extent that the same would be lawful or in equity enforceable nothing in this Agreement restricts or is intended to restrict the proper exercise at any time by the Local Planning Authority or the Council of any of their statutory powers functions or discretions.
- 2.6 No person shall be liable for any breach of any of the obligations, covenants and undertakings or other provisions of this Agreement after parting with his entire interest in the Site or his interest in that part of the Site on which the breach occurs but without prejudice to liability for any subsisting breach arising before parting with that interest.
- 2.7 Subject to clause 2.8, no obligation, covenant or undertaking contained in this Agreement shall be binding on or enforceable against the interests held by a purchaser (including by way of a long lease) of any Residential Unit or a tenant or occupier of a Residential Unit on the Site (or any mortgagee as a successor in title) or person deriving title from the Owner to a Residential Unit.
- 2.8 The obligations contained in Schedule 1 Paragraph 2 relating to the Employment Generating Floorspace shall only be binding on or enforceable against the Owner and any successors in title to or assigns of the Owner or any person claiming through or under the Owner an interest or estate in the Employment Generating Floorspace.
- 2.9 No obligation or restriction in this Agreement shall be enforceable against any statutory undertaker who acquires any part of the Site or interest therein for the purposes of the supply of electricity, gas, water, drainage, telecommunication services or public transport services.
- 2.10 No obligation, covenant or undertaking in this Agreement shall be binding on or enforceable against the Chargee or any receiver appointed by the Chargee or any person deriving title through the Chargee, unless and until the Chargee has entered into possession of the Site or part thereof to which such obligation, covenant or undertaking relates.
- 2.11 No obligation, covenant or undertaking in this Agreement shall be binding on or enforceable against any chargee or mortgagee from time to time who shall have the benefit of a charge or mortgage of or on any part or parts of the Site or any receiver appointed by such chargee or mortgagee or any person deriving title through such chargee, mortgagee or receiver unless and until such chargee, mortgagee, receiver or person has entered into possession of the Site or part thereof to which such obligation, covenant or undertaking relates.
- 2.12 This Agreement is a local land charge and shall be registered as such by the Council as soon as reasonably practicable after completion of this Agreement.
- 2.13 Where the Planning Permission is the subject of any judicial review proceedings or other legal challenge the Local Planning Authority shall as soon as reasonably practicable notify in writing the Owner, the Chargee and the Council of the bringing of such proceedings or challenge.
- 2.14 This Agreement and the obligations, covenants and undertakings which it contains shall (apart from this Clause and paragraph 1.3 of Schedule 2) lapse and be extinguished automatically if (and from the date that) the Planning Permission:-
- 2.14.1 lapses without the Development being occupied pursuant to the Planning Permission; or
- 2.14.2 is quashed, revoked or otherwise withdrawn (without the consent of the Owner) or modified (without the consent of the Owner) ;
- and in these circumstances the provisions of paragraph 1.3 of Schedule 2 shall apply.
- 2.15 Nothing in this Agreement 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 Agreement.

2.16 Without prejudice to Clause 2.5 and to the Local Planning Authority's discretion to require a modification to this Agreement made pursuant to section 106A of the 1990 Act and/or to require any new additional or further planning obligations made pursuant to section 106 of the 1990 Act, references in this Agreement to the Development include development authorised by any S73 Consent and by any non-material change to the Planning Permission approved by the Local Planning Authority pursuant to section 96A of the 1990 Act.

2.17 The Planning Permission will be issued in a form that is not substantially different from the draft Planning Permission attached at Appendix 2 and will not contain any condition other than the condition set out in the draft Planning Permission attached at Appendix 2.

3. **CONDITIONALITY**

This Agreement shall take effect on the date of this Agreement.

4. **THE OWNER COVENANTS WITH THE LOCAL PLANNING AUTHORITY**

4.1 Subject to Clause 5, the Owner covenants with the Local Planning Authority that it will perform and Comply with and procure performance of and Compliance with, each and every of the obligations, covenants and undertakings specified in Schedule 1.

5. **FINANCIAL CONTRIBUTIONS**

5.1 Where, pursuant to this Agreement, a payment or financial contribution is to be made, such payment or financial contribution shall be paid in accordance with the triggers and provisions for payment set out in and in accordance with all relevant provisions of this Agreement.

5.2 The Local Planning Authority acknowledges receipt of the Off Site Affordable Housing Contribution on the date of completion of this Agreement.

5.3 All financial contributions and payments under this Agreement shall be made on the dates provided in this Agreement and if paid late shall be paid with interest accrued calculated from the date such financial contributions and other payments were due to the date of the actual payment at 2% above the base rate of a clearing bank to be approved by the Local Planning Authority.

6. **COUNCIL'S COVENANTS WITH THE OWNER**

The Council covenants with the Owner that the Council will perform and comply with the obligations, covenants and undertakings on the part of the Council specified in this Agreement.

7. **LOCAL PLANNING AUTHORITY'S COVENANTS WITH THE OWNER**

7.1 The Local Planning Authority covenants with the Owner that the Local Planning Authority will perform and comply with the obligations, covenants and undertakings on the part of the Local Planning Authority specified in this Agreement.

8. **NOTICES**

8.1 Any notice or other written communication to be served upon a Party or given by one Party to any other under the terms of this Agreement shall be deemed to have been validly served or given if delivered by hand or sent by first class post or sent by recorded delivery post to the Party upon whom it is to be served or to whom it is to be given and shall conclusively be deemed to have been received on:-

8.1.1 if delivered by hand, the next Business Day after the day of delivery; and

8.1.2 if sent by first class post or recorded delivery post, the day two Business Days after the date of posting.

- 8.2 The address for any notice or other written communication shall be within the United Kingdom only and shall be as specified below or such other address as shall be specified by the Party upon whom the notice is to be served to the other Parties by not less than five Business Days' notice:-

Local Planning Authority:

Director of Planning Decisions (For the Attention of: Vivienne Ramsey)
London Legacy Development Corporation - Planning Decisions Team
Level 10
1 Stratford Place
Montfichet Road
London E20 1EJ

with a copy to:

Chief Planner, Local Planning Authority (For the Attention of: Anthony Hollingsworth)
London Legacy Development Corporation - Planning Decisions Team
Level 10
1 Stratford Place
Montfichet Road
London E20 1EJ

Council:

London Borough of Tower Hamlets (For the Attention of: The Director of Planning)
Town Hall
Mulberry Place
5 Clove Crescent
London E14 2BG

Owner:

c/o Helen Ratsey
~~Legal Counsel~~ Company Secretary
Development Securities PLC
Portland House
Bressenden Place
London SW1E 5DS

Nabarro LLP ^B

- 8.3 Any notice or other written communication to be given by the Local Planning Authority shall be deemed valid and effectual if on its face it is signed on behalf of the Local Planning Authority by an officer or duly authorised signatory and is validly served pursuant to clauses 8.1 and 8.2 of this Agreement.

9. SATISFACTION OF ANY OF THE PROVISIONS OF THIS AGREEMENT

- 9.1 Where in the opinion of the Owner any obligation, covenant, undertaking or other provision on the part of the Owner contained in this Agreement has been satisfied wholly or in part or any condition attached to the Planning Permission has been complied with wholly or in part, the Owner shall be entitled to apply to the Local Planning Authority for a notification to that effect, and where the Local Planning Authority (having first consulted with the Council on any obligations, covenants or undertakings given to the Council) considers that the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) or Condition has been complied with (wholly or in part) the Local Planning Authority shall as soon as reasonably practicable issue a written notification to such effect. A notification may be given that the relevant obligation, covenant, undertaking or other provision (as the case may be) has been satisfied in relation to part of the Site or condition has been complied with in relation to part of the Site.
- 9.2 Where in the opinion of the Council, any obligation, covenant, undertaking or other provision on the part of the Council contained in this Agreement has been satisfied wholly or in part, the Council shall be entitled to apply to the Owner for a notification to that effect, and where the relevant obligation, covenant, undertaking or other provision has been satisfied (wholly or in part) the Owner shall as soon as reasonably practicable issue a notification to such effect. A notification may be

given that the relevant obligation, covenant, undertaking or other provision (as the case may be) has been satisfied in relation to part of the Site.

10. VERIFICATION AND ENFORCEMENT

The Owner shall permit the Local Planning Authority and the Council (subject to the proviso to this Clause) together with their respective authorised employees agents surveyors and other representatives to enter upon the Site and any buildings erected thereon pursuant to the Development at reasonable times and upon reasonable written prior notice of at least 10 Business Days for the purpose of verifying whether or not the obligations contained in this Agreement are being performed and Complied with **PROVIDED THAT** the Local Planning Authority or (as the case may be) the Council shall make good any damage caused by the Local Planning Authority or the Council or their respective authorised employees, agents, surveyors or other representatives during the carrying out of such verification.

11. DISPUTE RESOLUTION

11.1 In the event of any dispute arising between the Parties in respect of any matter contained in this Agreement the same may be referred to the Expert by any Party notifying the other Parties of such intention (the "**Notice**").

11.2 The Notice must specify:-

11.2.1 the nature, basis and brief description of the dispute;

11.2.2 the Clause of this Agreement or Paragraph of a Schedule of this Agreement under which the dispute has arisen; and

11.2.3 the proposed Expert.

11.3 The Expert shall be an independent person of at least ten years standing in the area of expertise relevant to the dispute and in the event that the Parties are unable to agree whom should be appointed as the Expert within ten Business Days after the date of the Notice then any Party may request:-

11.3.1 if such dispute shall relate to matters concerning the construction, interpretation and/or the application of this Agreement, the Chairman of the Bar Council to nominate the Expert;

11.3.2 if such dispute shall relate to matters requiring a specialist chartered surveyor, the President of the Royal Institute of Chartered Surveyors to nominate the Expert;

11.3.3 if such dispute shall relate to matters requiring a specialist chartered civil engineer, the President of the Institution of Civil Engineers to nominate the Expert; and

11.3.4 if such dispute shall relate to matters requiring a specialist chartered accountant, the President of the Institute of Chartered Accountants in England and Wales to nominate the Expert; and

11.3.5 in all other cases, the President of the Law Society to nominate the Expert.

11.4 If the dispute shall relate to matters falling within two or more of Clauses 11.3.1 to 11.3.5 above, the Parties may agree to appoint joint Experts and in the event that the Parties are unable to agree whom should be appointed as joint Experts, the Parties may request the President of the Law Society to nominate such persons falling within the descriptions of Clauses 11.3.1 to 11.3.5 to act as joint Experts.

11.5 The Expert shall act as an expert and not as an arbitrator and whose cost shall be at his discretion or in the event that he makes no determination, such costs will be borne by the Parties to the dispute in equal shares.

- 11.6 The Expert shall be appointed (through an agreed request statement setting out exactly the questions that he is to determine submitted jointly by the Parties) subject to an express requirement that he reaches his decision and communicates it to the Parties to the dispute within the minimum practical timescale allowing for the nature and complexity of the dispute and in any event not more than twenty Business Days from the date of his appointment to act and that he is to have particular regard to the duties imposed by the Localism Act in reaching his decision.
- 11.7 The Expert shall be required to give notice to each of the said Parties to the dispute inviting each of them to submit to him within ten Business Days from the date of his appointment written submissions and supporting material and shall afford to the said Parties an opportunity to make counter submissions within a further five Business Days in respect of any such submission and material.
- 11.8 Where in this Agreement any matter is referred to dispute resolution under Clause 11 the findings of the Expert shall (save in relation to manifest error) be final and binding on the Parties and such findings shall be deemed to constitute the required approval or agreement or other Consent for the purposes of this Agreement.

12. **NO WAIVER**

No waiver (whether expressed or implied) by the Local Planning Authority and/or the Council of any breach or default by the Owner in performing or complying with any of the obligations, covenants or undertakings contained in this Agreement shall constitute a continuing waiver and no such waiver shall prevent the Local Planning Authority and/or the Council from enforcing any of the said obligations, covenants or undertakings or from acting upon any subsequent breach or default in respect thereof by the Owner.

13. **DUTY TO ACT REASONABLY AND IN GOOD FAITH**

- 13.1 The Parties agree with one another to act reasonably and in good faith in the fulfilment of this Agreement.
- 13.2 Where by this Agreement any action, approval, consent, direction, authority or agreement is required to be taken, given or reached by the Parties, any such action, approval, consent, direction, authority or agreement shall not be unreasonable or unreasonably withheld, conditioned or delayed.

14. **EXCLUSION OF CONTRACTS (RIGHTS OF THIRD PARTIES) ACT 1999**

No provisions of this Agreement shall be enforceable under the Contracts (Rights of Third Parties) Act 1999.

15. **PARTIES NOT TO ENCUMBER**

- 15.1 The Owner shall not encumber or otherwise deal with its interest in the Site or any part or parts thereof in any manner whatsoever whereby the obligations, covenants and undertakings imposed by this Agreement are rendered impossible to carry out save where planning permission is granted after the date of this Agreement for an alternative development of the Site **PROVIDED THAT** this Clause 15 shall not restrict the Owner from encumbering or otherwise dealing with its interest in the Site or any part or parts thereof on a basis that is subject to the obligations, covenants and undertakings imposed by this Agreement.
- 15.2 Notwithstanding Clause 15.1 above, the provisions of this Agreement can be amended by agreement with the Council and/or the Local Planning Authority (whichever is the appropriate authority) such amendment may be by way of section 106A of the 1990 Act.

16. **JURISDICTION AND LEGAL EFFECT**

- 16.1 This Agreement shall be governed by and interpreted in accordance with the law of England.

16.2 The provisions of this Agreement (other than this Clause 16.2 which shall be effective in any event) shall be of no effect until this Agreement has been dated.

17. **LEGAL FEES**

17.1 The Owner agrees that it will on completion of this Agreement pay the Local Planning Authority's legal costs reasonably and properly incurred in the negotiation and completion of this Agreement (inclusive of any such reasonable costs properly incurred by external lawyers appointed by the Local Planning Authority in relation to the negotiation and completion of this Agreement).

18. **EXECUTION**

The Parties have executed this Agreement as a deed and it is delivered on the date set out at the front of this Agreement. -

SCHEDULE 1

THE OWNER'S OBLIGATIONS

1. OFF SITE AFFORDABLE HOUSING CONTRIBUTION

- 1.1 On the date of completion of this Agreement the Owner shall pay to the Local Planning Authority the Off Site Affordable Housing Contribution.

2. EMPLOYMENT GENERATING FLOORSPACE

- 2.1 Subject to the Planning Permission being granted and unless otherwise agreed in writing with the Local Planning Authority (or if the same shall cease to exist the subsequent body having the powers of the Local Planning Authority) the Employment Generating Floorspace shall not be occupied other than:

2.1.1 for a use permitted by planning permission reference PA/03/01617, or any other lawful use as is permitted by any subsequent planning permission, development order, Town and Country Planning (Use Classes) Order 1987 (as amended) or such other permission or consent(s) relating to the use of the Employment Generating Floorspace;

2.1.2 for the first thirty six (36) months commencing from First Occupation of the Employment Generating Floorspace at nil (£0) rent; and

2.1.3 thereafter for the lifetime of the Development at a rent not exceeding £3.00 per square foot.

- 2.2 Every year for the first five (5) years from First Occupation of the Employment Generating Floorspace and then every three (3) years thereafter, the Owner will submit to the Local Planning Authority a report covering the period from First Occupation, or from the previous report (as appropriate) demonstrating to the Local Planning Authority's reasonable satisfaction that the Employment Generating Floorspace has been occupied in accordance with this Schedule 1, unless the Owner requests in writing, and the Local Planning Authority agrees in writing, that such a report is not necessary in any particular year.

SCHEDULE 2

COUNCIL'S OBLIGATIONS

1. APPLICATION OF FUNDS BY THE COUNCIL

1.1 Following receipt of the Off Site Affordable Housing Contribution (which the Owner has paid to the Local Planning Authority pursuant to paragraph 1 of Schedule 1) from the Local Planning Authority, the Council covenants and undertakes to apply such sum only towards the provision of affordable housing in the Council's area **PROVIDED THAT** for the avoidance of doubt the Council will be entitled to treat any accrued interest as if it were part of the principal sum paid by the Owner.

1.2 In the event that the Off Site Affordable Housing Contribution paid by the Owner pursuant to paragraph 1 of Schedule 1 has not been used in full for the said purpose within seven (7) years from the date of payment of such sum, the Council (upon the receipt of a written request from the Owner) shall within twenty-eight (28) days of the end of the said period of seven (7) years repay such sums or amounts (or such part thereof) to whoever paid the contribution in question with interest calculated at the Bank of England Base Rate from time to time from the date of payment until the date of repayment by the Council but less any tax that may be payable thereon **PROVIDED THAT** the Council shall not be required to repay any sum or sums which the Council have committed to pay to another party at the date of expiration of the said period or any sum which is required by the Council to secure the completion of any works, project or programme or provision of services which have commenced but have not been completed as at the expiration of the said period.

1.3 In the event that:

1.3.1 the Local Planning Authority does not issue the Planning Permission within five (5) Business Days of the date of completion of this Agreement; or

1.3.2 the Planning Permission is quashed, revoked or otherwise withdrawn (without the consent of the Owner); or

the Council will repay the Off Site Affordable Housing Contribution within 5 Business Days of the Owner notifying the Council that one of the above events has occurred.

SCHEDULE 3

LOCAL PLANNING AUTHORITY'S OBLIGATIONS

1. GRANT OF PLANNING PERMISSION

- 1.1 The Local Planning Authority will grant the Planning Permission and issue a copy of the Planning Permission to the Owner within five (5) Business Days of the date of completion of this Agreement.
- 1.2 The Local Planning Authority will not transfer the Off Site Affordable Housing Contribution to the Council unless and until it has issued the Planning Permission in a form that is not substantially different from the draft Planning Permission attached at Appendix 2 and does not contain any condition other than the conditions set out in the draft Planning Permission attached at Appendix 2.
- 1.3 In the event that the Local Planning Authority does not issue the Planning Permission within five (5) Business Days of the date of completion of this Agreement, the Local Planning Authority will immediately repay the Off Site Affordable Housing Contribution to the Owner.

IN WITNESS whereof the parties hereto have executed this Agreement the day and year first above written

EXECUTED as a Deed
(but not delivered until dated)
by affixing the Common Seal of the
LONDON LEGACY DEVELOPMENT CORPORATION
in the presence of:-

)
)
)
)
) 

Authorised Signatory



#1155.

EXECUTED as a Deed
(but not delivered until dated)
by affixing the Common Seal of the
THE MAYOR AND BURGESSES OF THE LONDON BOROUGH OF TOWER HAMLETS
in the presence of:-

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) 

Authorised Signatory

DP/12/314

EXECUTED as a Deed
(but not delivered until dated) by
WICK LANE (LUX) S.A.R.L.
acting by:-

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)
)
) 

Director
Hugo Newman
Director/Secretary


Godfrey Abel

Signed & delivered
EXECUTED as a Deed
(but not delivered until dated)
by affixing the Common Seal of the ~~for and on the behalf of.~~
THE ROYAL BANK OF SCOTLAND PLC
in the presence of:- ~~by its duly~~
~~authorised attorney~~
in the presence of:- ~~Director~~

R.F. Nan 

~~Director/Secretary~~

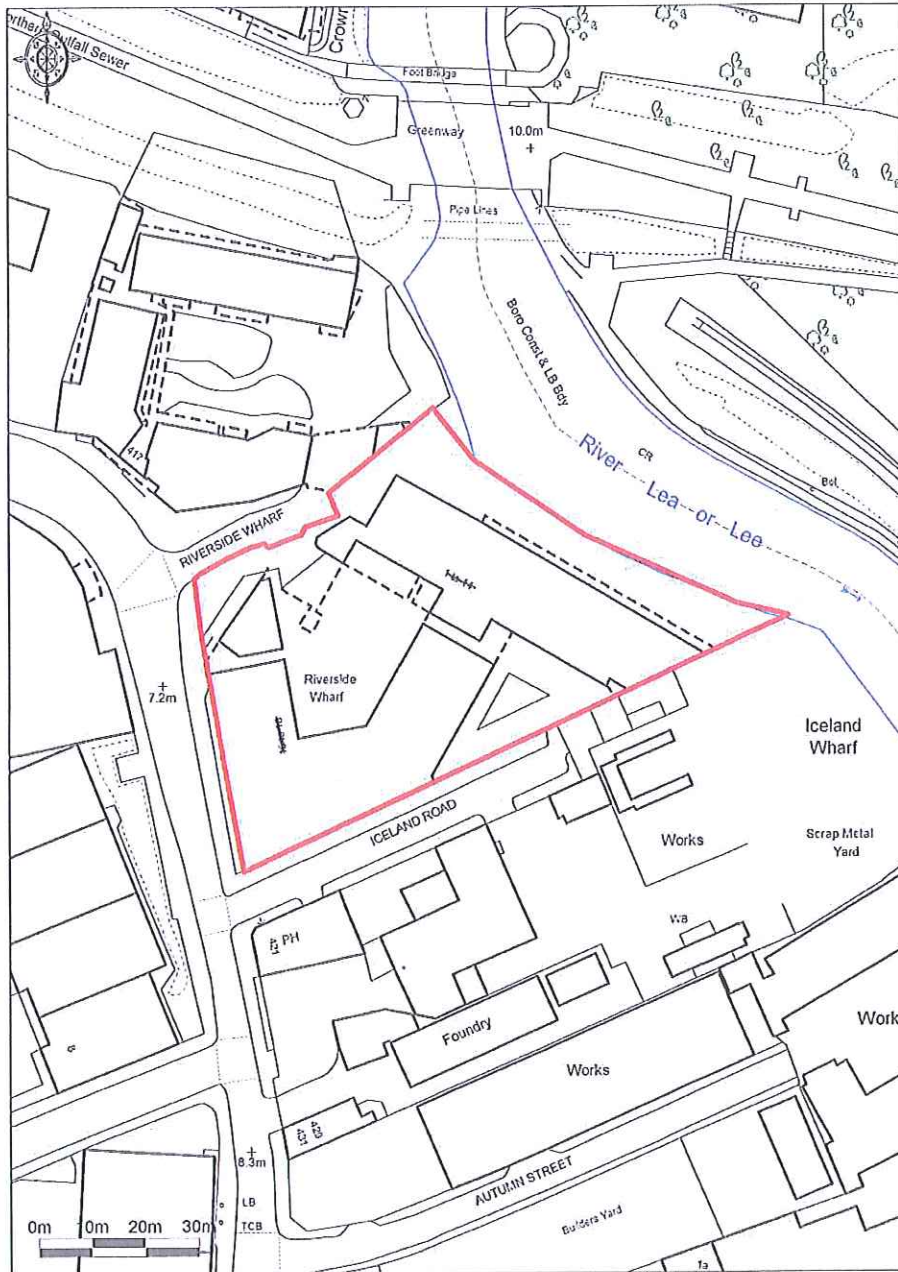


LINDA MARSH
BANK EMPLOYEE
280 Bishopsgate
London EC2M 4RB

APPENDIX 1
SITE PLAN

Riverside Works, 419 Wick Lane, E8
Site Plan

[Handwritten signatures and initials in blue ink]



AC.

APPENDIX 2
DRAFT PLANNING PERMISSION



FULL PLANNING PERMISSION APPROVAL

Town and Country Planning Act 1990

Town and Country Planning (Development Management Procedure) (England) Order 2010

Please see notes at the end of this notice

Applicant

Development Securities

Agent

Savills
Lansdowne House
57 Berkeley Square
London
W1J 6ER

Part I - Particulars of Application

Date of Application: 4th April 2012

Application No: 12/00165/FUM

Proposal: Change of use of the existing 112 live-work units (Use Class sui generis) to permanent residential accommodation (Use Class C3)

Location: 419 Wick Lane, Fish Island, London

Part II - Particulars of Decision

In pursuance of the powers under the above Act and Order the London Legacy Development Corporation hereby gives notice that **PLANNING PERMISSION HAS BEEN APPROVED** for the carrying out of the development referred to in Part I hereof and as described and shown on the application and plan(s) submitted, subject to the following conditions and notes:

1. The use permitted by this planning permission must be commenced not later than the expiration of THREE years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Prior to the first occupation of the development, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that all eight sustainability targets set out in the Savills October 2012 note have been installed, and providing a programme for the monitoring elements of targets 1 and 4. The monitoring shall be undertaken in accordance with the approved programme.

Reason: To ensure that the development meets the wider objectives of energy efficiency in new building design and construction, and to accord with policies 5.2 and 5.3 of the London Plan, SO3 and SP05 of the London Borough of Tower Hamlets Core Strategy, DEV5 of the London Borough of Tower Hamlets Interim Planning Guidance, and FI7.1 of the London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document.

Informative:

1. Mayor of London's Community Infrastructure Levy (CIL) - This application will attract a charge under the Mayor of London's CIL, which in the London Borough of Tower Hamlets is a flat rate charge of £35 per square metre of additional internal floorspace.

For more information on the Mayor of London's CIL please see www.london.gov.uk/publication/mayoral-community-infrastructure-levy. To view the CIL regulations and for more information on CIL in general please see the Communities and Local Government CIL webpage on: www.communities.gov.uk/planningandbuilding/planningsystem/communityinfrastructurelevy.

Be advised that if you wish to make a claim for relief this needs to be made before the development is commenced, please see the Claiming Exemption or Relief Form also on the Planning Portal.

You are also required to notify Tower Hamlets Council prior to commencement of the development, please see the Commencement Notice Form also on the Planning Portal.

There are penalty surcharges in the CIL regulations if no one assumes liability and a Commencement Notice is not submitted to Tower Hamlets Council. It is an offence for a person to knowingly or recklessly supply information which is false or misleading in a material respect to a collecting or charging authority in response to a requirement under the Community Infrastructure Levy Regulations (2010) as amended (regulation 110, SI 2010/948). A person guilty of an offence under this regulation may face unlimited fines, two years imprisonment, or both.

Reasons for Approval and Summary of Relevant Development Plan Policies

In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 the following is a summary of the reasons for the grant of planning permission, together with a summary of the policies in the development plan which are relevant to the decision to grant permission.

The development plan for the site comprises: the London Plan (July 2011), London Borough of Tower Hamlets Core Strategy (September 2010), the London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007 and retained following the adoption of the Core Strategy) and the London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012).

These Reasons for Approval include a summary of the relevant planning policies as identified in the report to the Planning Committee of 23rd October 2012. The Planning Decisions Committee reached its decision on the planning application on the basis of the planning application documentation, the Committee report, and presentations at the Committee, including the application drawings and the comments of speakers who addressed the Planning Decisions Committee.

The Minutes of 23rd October 2012 Planning Decisions Committee meeting provide a detailed record of the discussion, debate and voting at the Committee meeting and the main issues raised in the consideration and determination of the application. The Minutes are available for inspection. The following issues in particular were discussed at the meeting:

- A Member asked if a change of use would preclude the use of the residential units as live/ work areas. The Director of Planning Policy and Decisions responded that the change of use would not preclude work being undertaken from those units as that would be permitted development but it would not permit the occupier of a residential unit to bring in employees to work in the residential units, as that would mean that the unit was primarily a place of work.
- A Member sought clarification in relation to the financial payment due to arise from the section 106 contribution. The Chief Planning Officer referred the Committee to Appendix 1 of the report to Committee and stated that the financial contribution would be approximately £1.9 million overall, comprised of around £557,000 for off-site affordable housing, the value of the commercial subsidy for the ground floor and the Mayoral Community Infrastructure Levy (CIL).
- A Member asked about the planting on the site and asked whether it connected to the river path. The Committee heard that the planting provided allowed for a riverside path and that as adjoining sites were developed, the path and planting would link up.

On balance and taking into account material considerations, the Planning Decisions Committee resolved to delegate authority to the Director of Planning Policy and Decisions to grant planning permission, subject to the satisfactory completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (in accordance with the heads of terms included in the Committee report), and subject to the conditions and informatives set out in the report to the Committee, and that the Director of Planning Policy and Decisions be granted authority to make any refinements, amendments, additions and/or deletions to the conditions and informatives as she considers reasonably necessary.

Each of the Reasons set out below reflects the topic and issue based approach in the Assessment of Planning Issues section of the report to Planning Decisions Committee. Each reason is structured in the same way, covering the principal issues and any comments or objections received and how these have been considered. The conclusion provides a summary in relation to relevant development plan policies.

Change of Use

Live-Work units were intended to help reduce car use and traffic levels, encourage the efficient use of land, reduce start-up costs for new businesses, drive economic regeneration, encourage mixed-use developments and support flexible working. However, Live-Work units were only typically occupied by a certain limited number of commercial uses, which thereby only had a limited effect on reflecting the benefits outlined. Occupants therefore often tended to be small, often sole-trader organisations which could otherwise operate from a residential property without the need for planning permission. A large proportion of Live-Work units were never used in the way they were intended, and inevitably were often being used simply as residential properties.

The London Borough of Tower Hamlets now consider Live-Work to be unsuccessful as a concept, and therefore no longer generally consider proposals for this use to be acceptable (the Council's policy approach to composites of residential and commercial space within the same self-contained unit is to resist them where the premises is not used "principally as a private residence" - Tower Hamlets LDF Submission Document Core Evidence Base: Live-Work Report, 2006). The use of the property for residential has been established through the permission for use of the units as live-work units. It is therefore considered that the proposed change of use from Live-Work to residential is acceptable in this location as a residential population would have been present on the site even if the Live-Work consent had been executed successfully. The Fish Island AAP does allow for residential

development within this area within a Local Industrial Location. The London Borough of Tower Hamlets confirmed in the consultation response that it supports the principal of conversion of the live work units to provide new housing, and notes that this will contribute towards meeting local housing need.

The LLDC PPDT consider that the change of use of the development from Live/Work to residential is acceptable in this location, would have no significant negative impact on the ability of Fish Island to serve its designation as a Local Industrial Location, and would help achieve a positive increase on house numbers within the London Borough of Tower Hamlets.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 2.17 – Strategic Industrial Locations

The Mayor will and boroughs and other stakeholders should promote, manage and, where appropriate, protect the Strategic Industrial Locations (SILs) as London's main reservoirs of industrial and related capacity including logistics, waste management, utilities, wholesale markets and some transport functions. Development proposals in SILs should be refused unless: they fall within the broad industrial type activities; they are part of a strategically coordinated process of SIL consolidation through an Opportunity Area Planning Framework or borough DPD; the proposal is for employment workspace to meet identified needs for small and medium sized enterprises or new emerging industrial sectors; the proposal is for small scale 'walk to' services for industrial occupiers such as workplace crèches or cafes. Development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial type activities.

Policy 3.3 – Increased housing supply

Working with relevant partners, the Mayor will seek provision of at least an annual average of 33,400 additional homes across London which will enhance the environment, improve housing choice and affordability and provide better quality accommodation for Londoners. Boroughs should seek to achieve and exceed the relevant minimum borough housing annual average target.

Policy 4.4 – Managing industrial land and premises

The Mayor will work with boroughs and other partners to:

- a) adopt a rigorous approach to industrial land management to ensure a sufficient stock of land and premises to meet the future needs of different types of industrial and related uses in different parts of London, including for good quality and affordable space;
- b) plan, monitor and manage release of surplus industrial land where this is compatible with a) above, so that it can contribute to strategic and local planning objectives, especially those to provide more housing, and, in appropriate locations, to provide social infrastructure and to contribute to town centre renewal.

London Borough of Tower Hamlets Core Strategy Development Plan Document adopted September 2010.

The following summarised policies are relevant;

SP01

Promote areas outside of town centres as places that support and assist in the creation of sustainable communities by promoting areas outside of town centres for primarily residential users as well as other supporting uses that are local in nature and scale.

SP02

Seek to deliver 43,275 new homes from 2010 to 2025 in line with the housing targets set out in the London Plan. This will be achieved by focusing the majority of new housing in the following places...Fish Island. Ensure new housing assists in the creation of sustainable places. Ensure all housing is appropriate is appropriate, high-quality, well-designed and sustainable.

SP06

Seek to maximise and deliver investment and job creation in the borough. Promote the creation of a sustainable, diversified and balanced economy by ensuring a sufficient range, mix and quality of employment uses and spaces, with particular focus on the small and medium enterprise sector. Retaining, promoting and encouraging flexible workspace in town centre, edge-of-town centre and main street locations. Encouraging and retaining the provision of units (of approximately 250sqm or less) suitable for small and medium enterprises). Ensure a managed approach to industrial land for the borough in order to assist in creating sustainable communities, this will be achieved through safeguarding and intensifying industrial land in the following areas (Fish Island South SIL). Working with the GLA and partners to co-ordinate a managed, phased release of strategic industrial land in Fish Island North and Fish Island Mid, only once the Fish Island Area Action Plan is in place to deliver the wider regeneration.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The site is within a designated Industrial Employment Area, and flood protection area.

The following summarised policies are relevant;

EMP1 – Promoting employment growth

Employment growth will be encouraged through the re-use of vacant land and derelict buildings, by the re-development and up-grading of sites already in employment uses; and through the development for employment uses of those sites shown on the proposals map.

EMP8 – Small businesses

The growth and development of new or expanding businesses will be encouraged by the provision of a range of business units; subdivision of large surplus units; encouraging and identifying opportunities to provide managed workspace; temporary use of vacant buildings by small businesses; encouraging home-working and craft workshop or live/work schemes within new housing schemes provided there is no loss of residential amenity.

EMP10 – Business use, development elsewhere in the borough

Outside of the central area zones, business development will normally be permitted where the following are complied with: retention of premises which provide adequate loading and servicing facilities for the full range of B1 uses; would not give rise to unacceptable levels of traffic; where employment intensive uses, the development is well served by public transport; the local road network can accommodate the additional road traffic and servicing.

EMP11 – Industrial Employment Areas – location and purpose

Development within designated industrial employment areas to provide for the retention, expansion and growth in employment provided by general industrial and warehousing uses (B2 and B8) will generally be permitted provided that the development meet the needs of these uses, the use will not cause serious nuisance by way of traffic generation, noise, vibration or pollution to adjoining uses or the surrounding area; in industrial employment areas new environmentally intrusive uses or uses having a low employment density such as waste transfer stations, open storage yards, scrap yards and haulage depots will be resisted. Such uses may be considered where the site is underused and there is no reasonable prospect of other uses being viable and where detriment to noise and amenity is minimised.

EMP12 – Business use in Industrial Employment Areas

Within the Industrial Employment Areas, development for business use will normally be permitted where the proposal; is designed principally to be suitable for industrial uses or forms part of a mixed use scheme for industrial uses, and does not conflict with proposals shown on the proposals map and listed in schedules.

EMP13 – Residential development in Industrial Employment Areas

Within the Industrial Employment Areas shown on the proposals map residential development will be permitted only where the loss of industrial land is justified, subject to the other policies in the plan.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policies are relevant;

Policy FI 4.2 - Local Industrial Location

Development resulting in the net loss of industrial floor space within Fish Island LIL will not be supported. The redevelopment of sites with existing industrial (class B1 (b & c), B2 and B8) floor space to include residential uses will only be supported if the existing industrial floor space is re-provided on site.

Policy FI 4.3 - Managing the redevelopment of former industrial land

Proposals for redevelopment of existing industrial sites outside of the SIL and LIL, for mixed use including residential will be considered favourably if they meet the following criteria. This will be applied flexibly depending on the individual site, subject to other policies in the AAP:

- The proposals would maintain or increase employment density;
- A relocation strategy for existing businesses affected by the redevelopment has been provided;
- The development would provide or contribute to the social and community facilities required to support new housing development;
- Proposals for mixed use development that include housing would not result in any significant conflict between employment and residential uses (including those on adjacent sites);
- Proposals would include flexible work space for small and medium enterprises and/or creative industries.

Policy FI 6.3 Fish Island South

Comprehensive redevelopment of existing small scale industrial units will be supported where it delivers the key principles of intensifying industrial floor space suitable for modern industry. New development should be designed to provide active building frontages to Wick Lane, to enhance natural surveillance and improve the quality of the built environment. Development either side of Wick Lane should be designed to respond positively to the existing live work units in terms of scale and location of the less intensive employment uses on the site.

Loss of Employment Generating Floor Space

The application involves no physical changes to the layout of the building, has no design or amenity implications and does not specifically preclude future use for employment as occupants will be able to work from home without the need for planning permission. The application seeks the retention of 1,030sqm of office (B1) floor space and 88sqm of commercial/restaurant/café (A1/A3) floor space which will be offered at subsidised rents of £3 per square foot in perpetuity, with a rent free period of 36 months. This affordable workspace will be secured through the section 106 agreement.

The drawings and schedules approved pursuant to the original permission to redevelop the site referenced a distinct split of living and working floor space. This current application for a change of use to purely residential would effectively constitute the loss of 6,018m² of employment generating floor space. However, as referenced above, it is considered that this floor space would in all likelihood never be implemented for its intended purpose. While it is accepted that this 'employment generating' floor space will be lost, it is not (and never has been) utilised as such.

It is considered that as the employment generating use of the application site was never implemented, along with the retention of B1(a) floor space at ground floor level, the proposed change of use would have negligible impact on the availability of B1 office space within Fish Island. The Fish Island AAP and LBTH Core Strategy generally support the provision of new residential accommodation in this area of Fish Island South, and it is considered that if this application were to be viewed in isolation without its Live/Work history the residential aspect would be considered favourably.

In order to bring this vacant building into sustainable use the loss of this unimplemented commercial floor space within the live/work units is considered to be acceptable in this instance. The applicants have demonstrated through their Toolkit Viability Assessment that a commuted sum for the loss of

employment generating floor space would not be possible as it would affect the commercial viability of the development. Over 1,000m² of B1 floor space will still be provided at ground floor level at this site, at a severely discounted rent of £3 per square foot in perpetuity.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 2.17 – Strategic Industrial Locations

The Mayor will and boroughs and other stakeholders should promote, manage and, where appropriate, protect the Strategic Industrial Locations (SILs) as London's main reservoirs of industrial and related capacity including logistics, waste management, utilities, wholesale markets and some transport functions. Development proposals in SILs should be refused unless: they fall within the broad industrial type activities; they are part of a strategically coordinated process of SIL consolidation through an Opportunity Area Planning Framework or borough DPD; the proposal is for employment workspace to meet identified needs for small and medium sized enterprises or new emerging industrial sectors; the proposal is for small scale 'walk to' services for industrial occupiers such as workplace crèches or cafes. Development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial type activities.

Policy 3.3 – Increased housing supply

Working with relevant partners, the Mayor will seek provision of at least an annual average of 33,400 additional homes across London which will enhance the environment, improve housing choice and affordability and provide better quality accommodation for Londoners. Boroughs should seek to achieve and exceed the relevant minimum borough housing annual average target.

Policy 4.4 – Managing industrial land and premises

The Mayor will work with boroughs and other partners to:

- a) adopt a rigorous approach to industrial land management to ensure a sufficient stock of land and premises to meet the future needs of different types of industrial and related uses in different parts of London, including for good quality and affordable space;
- b) plan, monitor and manage release of surplus industrial land where this is compatible with a) above, so that it can contribute to strategic and local planning objectives, especially those to provide more housing, and, in appropriate locations, to provide social infrastructure and to contribute to town centre renewal.

London Borough of Tower Hamlets Core Strategy Development Plan Document adopted September 2010.

The following summarised policies are relevant;

SP01

Promote areas outside of town centres as places that support and assist in the creation of sustainable communities by promoting areas outside of town centres for primarily residential users as well as other supporting uses that are local in nature and scale.

SP02

Seek to deliver 43,275 new homes from 2010 to 2025 in line with the housing targets set out in the London Plan. This will be achieved by focusing the majority of new housing in the following places...Fish Island. Ensure new housing assists in the creation of sustainable places. Ensure all housing is appropriate is appropriate, high-quality, well-designed and sustainable.

SP06

Seek to maximise and deliver investment and job creation in the borough. Promote the creation of a sustainable, diversified and balanced economy by ensuring a sufficient range, mix and quality of employment uses and spaces, with particular focus on the small and medium enterprise sector. Retaining, promoting and encouraging flexible workspace in town centre, edge-of-town centre and main street locations. Encouraging and retaining the provision of units (of approximately 250sqm or

less) suitable for small and medium enterprises). Ensure a managed approach to industrial land for the borough in order to assist in creating sustainable communities, this will be achieved through safeguarding and intensifying industrial land in the following areas (Fish Island South SIL). Working with the GLA and partners to co-ordinate a managed, phased release of strategic industrial land in Fish Island North and Fish Island Mid, only once the Fish Island Area Action Plan is in place to deliver the wider regeneration.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The site is within a designated Industrial Employment Area, and flood protection area.

The following summarised policies are relevant;

DEV4 – Planning obligations

Seek to enter into planning obligations as appropriate and reasonable the scale and nature of development and are necessary for a development to proceed.

EMP1 – Promoting employment growth

Employment growth will be encouraged through the re-use of vacant land and derelict buildings, by the re-development and up-grading of sites already in employment uses; and through the development for employment uses of those site shown on the proposals map.

EMP8 – Small businesses

The growth and development of new or expanding businesses will be encouraged by the provision of a range of business units; subdivision of large surplus units; encouraging and identifying opportunities to provide managed workspace; temporary use of vacant buildings by small businesses; encouraging home-working and craft workshop or live/work schemes within new housing schemes provided there is no loss of residential amenity.

EMP10 – Business use, development elsewhere in the borough

Outside of the central area zones, business development will normally be permitted where the following are complied with: retention of premises which provide adequate loading and servicing facilities for the full range of B1 uses; would not give rise to unacceptable levels of traffic; where employment intensive uses, the development is well served by public transport; the local road network can accommodate the additional road traffic and servicing.

EMP11 – Industrial Employment Areas – location and purpose

Development within designated industrial employment areas to provide for the retention, expansion and growth in employment provided by general industrial and warehousing uses (B2 and B8) will generally be permitted provided that the development meet the needs of these uses, the use will not cause serious nuisance by way of traffic generation, noise, vibration or pollution to adjoining uses or the surrounding area; in industrial employment areas new environmentally intrusive uses or uses having a low employment density such as waste transfer stations, open storage yards, scrap yards and haulage depots will be resisted. Such uses may be considered where the site is underused and there is no reasonable prospect of other uses being viable and where detriment to noise and amenity is minimised.

EMP12 – Business use in Industrial Employment Areas

Within the Industrial Employment Areas, development for business use will normally permitted where the proposal; is designed principally to be suitable for industrial uses or forms part of a mixed use scheme for industrial uses, and does not conflict with proposals shown on the proposals map and listed in schedules.

EMP13 – Residential development in Industrial Employment Areas

Within the Industrial Employment Areas shown on the proposals map residential development will be permitted only where the loss of industrial land is justified, subject to the other policies in the plan.

HSG7 – Dwelling mix and type

New housing developments will be expected to provide a mix of unit sizes, including a substantial portion of family dwellings.

HSG13 – Conversions and internal standards for residential developments

All new housing developments should have adequate provision of internal residential space in order to function effectively.

HSG16 – Amenity space

All new housing developments should include an adequate provision of amenity space.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policies are relevant;

Policy FI 4.3 - Managing the redevelopment of former industrial land

Proposals for redevelopment of existing industrial sites outside of the SIL and LIL, for mixed use including residential will be considered favourably if they meet the following criteria. This will be applied flexibly depending on the individual site, subject to other policies in the AAP:

- The proposals would maintain or increase employment density;
- A relocation strategy for existing businesses affected by the redevelopment has been provided;
- The development would provide or contribute to the social and community facilities required to support new housing development;
- Proposals for mixed use development that include housing would not result in any significant conflict between employment and residential uses (including those on adjacent sites);
- Proposals would include flexible work space for small and medium enterprises and/or creative industries.

Policy FI 4.4 Protecting and enhancing CCIs and SMEs

New development should include flexible employment floorspace suitable for occupation by CCIs and SMEs and should include a proportion of employment floorspace provided at below market rents to attract new start up businesses.

Policy FI 6.3 Fish Island South

Comprehensive redevelopment of existing small scale industrial units will be supported where it delivers the key principles of intensifying industrial floor space suitable for modern industry. New development should be designed to provide active building frontages to Wick Lane, to enhance natural surveillance and improve the quality of the built environment. Development either side of Wick Lane should be designed to respond positively to the existing live work units in terms of scale and location of the less intensive employment uses on the site.

Affordable Housing

As the development has already been constructed there are particular issues associated with the provision of affordable housing on-site. The applicant has confirmed that Registered Social Landlords were approached, but the layout and specification of the units were not adoptable to them. Given that on-site direct provision is not possible in this case, Officers consider that funding for an off-site provision of affordable housing would, in this instance be appropriate and accord with relevant planning policies. The off-site affordable housing contribution has been considered in light of the viability of the development, and will be secured through the section 106 legal agreement that accompanies this planning permission.

The London Borough of Tower Hamlets commented that the application does not propose any on-site affordable housing and states that the nature of the units as built would not be attractive to registered providers. The planning statement refers to the provision of an off-site financial contribution towards affordable housing in lieu of on-site provision although there is no analysis of how this would support affordable housing delivery or whether this would sufficiently off-set the need for on-site provision of

35% by habitable room. This sum is substantially below the sum set aside to provide commercial rent subsidy. There is no policy justification to provide subsidised commercial units and the London Borough of Tower Hamlets question the need to inject such subsidy to development of employment floor space within a well established industrial employment location.

The London Borough of Tower Hamlets affordable housing policies, including SP02 in the Core Strategy, are subject to viability, a toolkit assessment of which has been provided as part of this application. The submitted toolkit viability assessment was reviewed by an independent advisor, who was broadly in agreement with their findings and increased the off-site contribution while still maintaining a viable scheme.

It is considered that a commercial subsidy would assist businesses who would not normally be able to afford this kind of floor space an opportunity to establish themselves in the borough. The applicants have stated verbally that while the ground floor level has been placed on the lease market at standard rates, no interest has been received.

The contribution has been assessed and justified in line with the CIL Regulation 122 and National Planning Policy Framework tests. The contribution is necessary to make the development acceptable in planning terms in order to meet the policy requirements as set out by the London Plan, and the London Borough of Tower Hamlets. The contribution is directly related to the development as the sum has been calculated through a viability assessment, and is considered to be of a fair and reasonable scale.

The London Borough of Tower Hamlets also commented that the creation of residential development will give rise to a number of planning impacts, including additional pressure on local infrastructure and that, the scheme would not provide for sufficient mitigation of these impacts. However, it is considered that the creation of purely residential floor space at upper floor levels will give no further rise to pressure on local infrastructure beyond what would be experienced by as a result of the previously approved live/work development.

Subject to securing the off-site affordable housing contribution, the proposal is considered to comply with the following policies.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 3.3 – Increased housing supply

Working with relevant partners, the Mayor will seek provision of at least an annual average of 33,400 additional homes across London which will enhance the environment, improve housing choice and affordability and provide better quality accommodation for Londoners. Boroughs should seek to achieve and exceed the relevant minimum borough housing annual average target.

Policy 3.5 – Quality and design of housing developments

Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment. The design of all new housing developments should enhance the quality of local places, taking into account physical context, local character, density, tenure and land use mix, and relationships with, and provision of public, communal and open spaces, taking particular account of the needs of children and older people. The design of all new dwellings should take account of factors relating to 'arrival' at the building and meet the dwelling space standards, have adequately sized rooms and convenient and efficient room layouts, meet the changing needs of Londoners over their lifetimes, address climate change adaptation and mitigation and social inclusion objectives and should be conceived and developed through an effective design process.

Policy 3.8 – Housing choice

Londoners should have a genuine choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings in the highest quality environments. Boroughs

should work with the Mayor and local communities to identify the range of needs likely to arise within their areas.

London Borough of Tower Hamlets Core Strategy Development Plan Document adopted September 2010.

The following summarised policies are relevant;

SP01

Promote areas outside of town centres as places that support and assist in the creation of sustainable communities by promoting areas outside of town centres for primarily residential users as well as other supporting uses that are local in nature and scale.

SP02

Seek to deliver 43,275 new homes from 2010 to 2025 in line with the housing targets set out in the London Plan. This will be achieved by focusing the majority of new housing in the following places...Fish Island. Ensure new housing assists in the creation of sustainable places. Ensure all housing is appropriate, high-quality, well-designed and sustainable.

SP06

Seek to maximise and deliver investment and job creation in the borough. Promote the creation of a sustainable, diversified and balanced economy by ensuring a sufficient range, mix and quality of employment uses and spaces, with particular focus on the small and medium enterprise sector. Retaining, promoting and encouraging flexible workspace in town centre, edge-of-town centre and main street locations. Encouraging and retaining the provision of units (of approximately 250sqm or less) suitable for small and medium enterprises). Ensure a managed approach to industrial land for the borough in order to assist in creating sustainable communities, this will be achieved through safeguarding and intensifying industrial land in the following areas (Fish Island South SIL). Working with the GLA and partners to co-ordinate a managed, phased release of strategic industrial land in Fish Island North and Fish Island Mid, only once the Fish Island Area Action Plan is in place to deliver the wider regeneration.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The following summarised policies are relevant;

DEV4 – Planning obligations

Seek to enter into planning obligations as appropriate and reasonable the scale and nature of development and are necessary for a development to proceed.

EMP13 – Residential development in Industrial Employment Areas

Within the Industrial Employment Areas shown on the proposals map residential development will be permitted only where the loss of industrial land is justified, subject to the other policies in the plan.

HSG7 – Dwelling mix and type

New housing developments will be expected to provide a mix of unit sizes, including a substantial portion of family dwellings.

HSG13 – Conversions and internal standards for residential developments

All new housing developments should have adequate provision of internal residential space in order to function effectively.

HSG16 – Amenity space

All new housing developments should include an adequate provision of amenity space.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policy is relevant;

Policy FI 4.5 Affordable and Family Housing

For schemes of 10 or more homes seeks a minimum of 35 per cent affordable housing with a split of 30 per cent intermediate and 70 per cent social rented housing. Affordable rented accommodation only considered acceptable where social rented provision would render the proposals unviable. Seeks a provision of a range of housing types and sizes.

Amenity

The use of the premises as residential only is considered not to cause material harm to neighbouring amenity, nor to the business premises adjacent (at 415 Wick Lane). The use of the property for solely residential purposes is considered not to affect the amount of open space required at the 419 Wick Lane development, nor to require any changes to the refuse/recycling arrangements at the development.

The proposed change of use will extend the living area of each individual dwelling, and not effect the dwelling mix, and will therefore have no effect on the child yield of the development, and as such no further outdoor children's play areas are proposed. This is considered to be acceptable, as no large family sized dwellings are proposed on the site.

There will be no increase in noise as a result of the change of use from Live-Work to residential. There will be no increase in overlooking or loss of privacy to neighbouring properties as a result of this application do to their being no external alterations proposed to the development.

The use of the property for solely residential purposes is considered not to affect the amount of open space required at the 419 Wick Lane development, nor to require any changes to the refuse/recycling arrangements at the development.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The following policies as summarised are relevant;

DEV2 – Environmental requirements

Seeks to protect the amenity of occupiers and neighbour buildings, protect areas of nature conservation, and to ensure that sustainable design and construction is included within the scheme.

DEV50 – Noise

Noise generated by a scheme and any mitigation measures proposed taken into account to with the aim of ensuring appropriate protection of residential amenity from noise disturbance.

HSG13 – Conversions and internal standards for residential developments

All new housing developments should have adequate provision of internal residential space in order to function effectively.

HSG16 – Amenity space

All new housing developments should include an adequate provision of amenity space.

Parking and transport

The change in use from live/work to residential would not change the maximum parking provision required by the London Plan's parking standard for B1 and residential uses in outer London areas and 1-2 bed units. There is a finite provision for car parking within the structure of the development and it is not proposed to amend this. The proposal is therefore considered to be acceptable in terms of the parking provision and associated transport impacts. Payment of the Mayoral Community Infrastructure Levy would ensure the development complies with policy 6.5 of the London Plan.

London Plan (July 2011)

The following policy as summarised is relevant;

Policy 6.5 – Funding Crossrail and other strategically important transport infrastructure

Contributions will be sought towards the implementation of Crossrail from developments likely to add to, or create, congestion on London's rail network that Crossrail is intended to mitigate.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The following summarised policy is relevant;

T16 – Traffic priorities for new development

In considering development proposals, account will be taken of the operational requirements of the proposed use, and the impact of the traffic that is likely to be generated. Considerations to be taken into account are;

- Danger or significant inconvenience to other road users including pedestrians and cyclists
- Obstruction of access for emergency services vehicles
- Detrimental impact on public transport operations
- Obstruction of the movement of traffic on major roads
- A deterioration in the environment of residential and other sensitive areas.

Sustainability

The applicant considers that trying to retrofit or replace materials and infrastructure that has never been used and are performing to their design intent would be more environmentally damaging than it is beneficial. The embodied carbon footprint from the waste created and the embodied carbon of new materials, and the carbon footprint from additional operations, is unlikely to ever be recovered from energy use savings under the guidance of EcoHomes or Code for Sustainable Homes. The building was constructed to 2006-2009 Building Regulation with good levels of insulation and an energy efficient design. The Applicant provided some targets that are considered to be sensible and more achievable that could be committed to improved efficiency.

Officers accept that retrofitting the completed development to Code or BREEAM standards is likely to be wasteful in terms of removing new fittings and potentially larger elements of the building. The measures set out above are considered to be proportional and appropriate for the completed development that are likely to improve the sustainability of the building, especially when considering the limited material difference between the building being occupied as live-work units or dwellings. A condition is included to capture these sustainability measures.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 5.2 – Minimising carbon dioxide emissions

Development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the energy hierarchy:

- be lean - use less energy
- be clean - supply energy efficiently
- be green - use renewable energy

Major development proposals should meet the following targets for carbon dioxide emissions reduction in buildings. These targets are expressed as minimum improvements over the Target Emission Rate outlined in the national Building Regulations; 2010-2013 25% improvement on 2010 Building Regulations for non-domestic buildings. Major development proposals should include a detailed energy assessment.

Policy 5.3 – Sustainable design and construction

The highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new development. Development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process. Major development proposals should meet the minimum standards outlined in the Mayor's supplementary planning guidance on Sustainable Design and Construction.

London Borough of Tower Hamlets Core Strategy (adopted September 2010)

The following policies (in summarised form) are relevant.

Policy SO3 – Achieving wider sustainability

Seeks to achieve environmental, social and economic development simultaneously. Where trade offs between competing objectives are unavoidable, this will be realised by: planning for healthy environments that recognise the important health related benefits of well designed neighbourhoods, high quality housing, access to employment, access to open space and to shops and services; mitigating and adapting the built environment to climate change; minimising the use of natural resources; protecting and enhancing the quality of the environment; improving air, land and water quality; ensuring the capacity of existing and new infrastructure is adequate.

Policy SP05 – Waste

Implement the Waste Management Hierarchy of reduce, reuse and recycle; requiring non-waste developments to appropriately design and plan for waste storage and recycling facilities; requiring all developments to reduce and re-use waste from construction and demolition; and supporting developments that use recycled materials.

London Borough of Tower Hamlets Core Strategy and Development Control Plan Interim Planning Guidance (October 2007)

The following policy as summarised is relevant;

DEV5 – Sustainable Design

The Council will expect all major development to use best practice sustainable design measures including, but not limited to, the following: a) maximising the use of natural systems, including the incorporation of Passive Solar Design measures; b) minimising energy use; c) designing out negative impacts on microclimate; d) protecting and, where possible, enhancing site biodiversity; and e) preventing the possibility of contamination to land, water or air.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policy is relevant;

Policy FI 7.1 Climate Change and Energy Efficiency

Proposals should deliver sustainable development by exploring opportunities to create a low or zero carbon area, minimise carbon emissions through energy efficient and renewable technologies, use of decentralised energy networks, ensuring developments enhance biodiversity and adopt sustainable design and construction measures. Seeks to implement a local heat and power network including safeguarding of opportunities to establish connections across waterways, highways and private land.

Dated this:

Vivienne Ramsey
Director of Planning Policy and Decisions
London Legacy Development Corporation

London Legacy Development Corporation

TOWN AND COUNTRY PLANNING ACT 1990

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, then you can appeal to the Secretary of State for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
- * If you want to appeal then you must do so within SIX months of the date of this notice, using a form, which is available from the Planning Inspectorate, (a copy of which must be sent to the London Legacy Development Corporation Planning Policy and Decisions Team) or complete an application online.
- * The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (e-mail: enquiries@pins.gsi.gov.uk) or (Tel: 0117 372 8000). To make an appeal online, please use www.planningportal.gov.uk/pcs. The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.
- * 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.
- * The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- * In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

Purchase Notice

- * If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.
- * In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.

APPENDIX 3
EMPLOYMENT GENERATING FLOORSPACE PLAN

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1:1114_02_101

Notes

No.	Description	Date
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SECTION 1.06
Upper level for complete structure

ARCHER ARCHITECTS LLP
Studio 2.07 The Tea Building
Spandrelly High Street
London E1 6B
T: 020 7739 2424
F: 020 7739 1118
www.archerarchitects.com

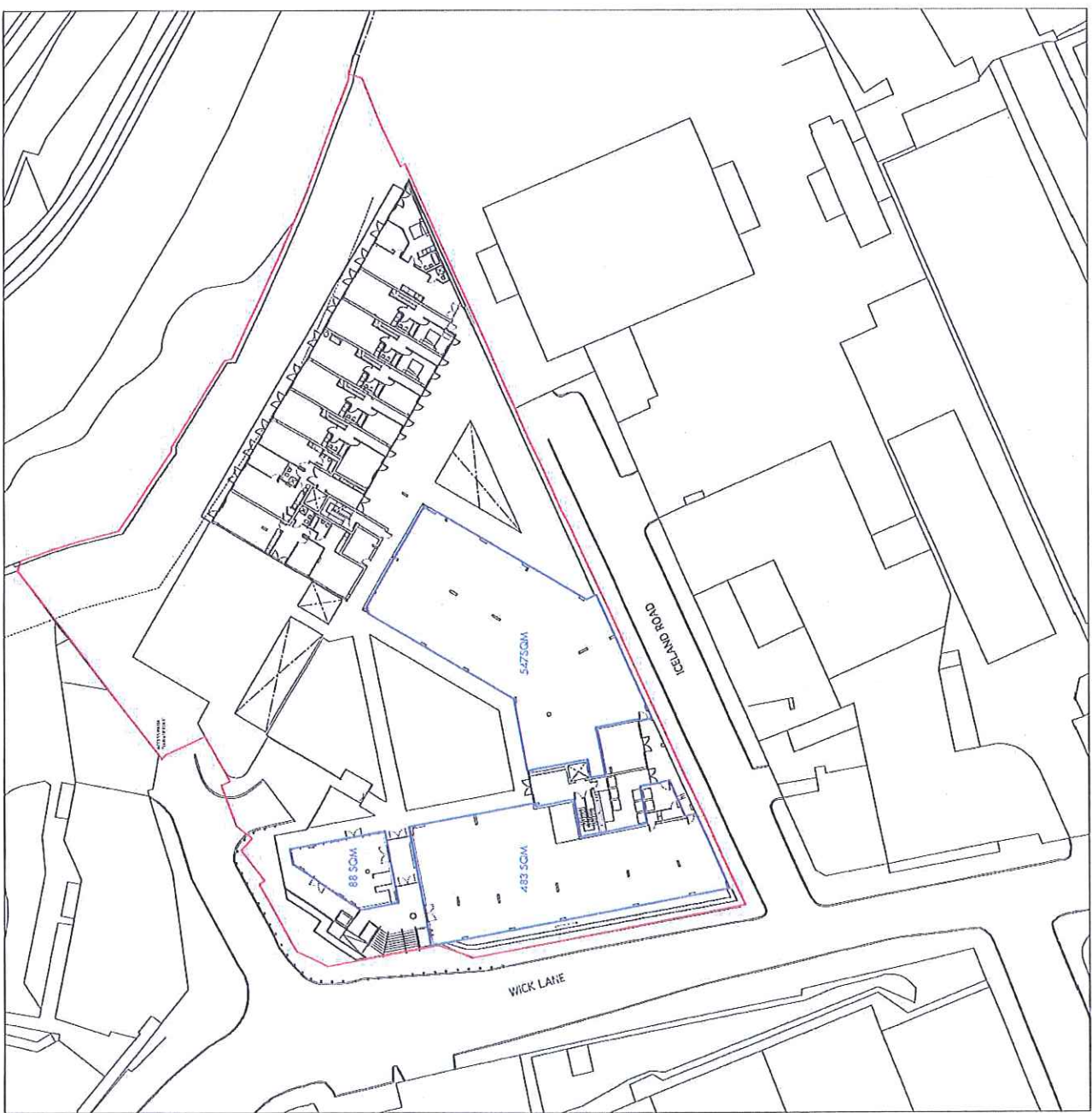
Client: DEVELOPMENT SECURITIES
Site: WICK LANE WHARF Plot No: 5114
Drawing No:

UPPER GROUND FLOOR PLAN

Scale: 1:500 @ A3
Level No: ARCH
Drawing No: 5114_02_101
Library No:

5114_02_101 S106

Handwritten signatures and initials in blue ink.





FULL PLANNING PERMISSION APPROVAL

Town and Country Planning Act 1990
Town and Country Planning (Development Management Procedure) (England) Order 2010

Please see notes at the end of this notice

Applicant	Agent
Development Securities	Savills 25 Finsbury Circus London EC2M 7EE

Part I - Particulars of Application

Date of Application: 4th April 2012

Application No: 12/00165/FUM

Proposal: Change of use of the existing 112 live-work units (Use Class sui generis) to permanent residential accommodation (Use Class C3)

Location: 419 Wick Lane, Fish Island, London

Part II - Particulars of Decision

In pursuance of the powers under the above Act and Order the London Legacy Development Corporation hereby gives notice that **PLANNING PERMISSION HAS BEEN APPROVED** for the carrying out of the development referred to in Part I hereof and as described and shown on the application and plan(s) submitted, subject to the following conditions and notes:

1. The use permitted by this planning permission must be commenced not later than the expiration of THREE years from the date of this permission.

Reason: To comply with the requirements of Section 91 of the Town and Country Planning Act 1990.

2. Prior to the first occupation of the development, evidence shall be submitted to and approved in writing by the Local Planning Authority to demonstrate that all eight sustainability targets set out in the Savills October 2012 note have been installed, and providing a programme for the monitoring elements of targets 1 and 4. The monitoring shall be undertaken in accordance with the approved programme.

Reason: To ensure that the development meets the wider objectives of energy efficiency in new building design and construction, and to accord with policies 5.2 and 5.3 of the London Plan, SO3 and SP05 of the London Borough of Tower Hamlets Core Strategy, DEV5 of the London Borough of Tower Hamlets Interim Planning Guidance, and FI7.1 of the London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document.

Informative:

1. Mayor of London's Community Infrastructure Levy (CIL) - This application will attract a charge under the Mayor of London's CIL, which in the London Borough of Tower Hamlets is a flat rate charge of £35 per square metre of additional internal floorspace.

For more information on the Mayor of London's CIL please see www.london.gov.uk/publication/mayoral-community-infrastructure-levy. To view the CIL regulations and for more information on CIL in general please see the Communities and Local Government CIL webpage on: www.communities.gov.uk/planningandbuilding/planningsystem/communityinfrastructurelevy.

Be advised that if you wish to make a claim for relief this needs to be made before the development is commenced, please see the Claiming Exemption or Relief Form also on the Planning Portal.

You are also required to notify Tower Hamlets Council prior to commencement of the development, please see the Commencement Notice Form also on the Planning Portal.

There are penalty surcharges in the CIL regulations if no one assumes liability and a Commencement Notice is not submitted to Tower Hamlets Council. It is an offence for a person to knowingly or recklessly supply information which is false or misleading in a material respect to a collecting or charging authority in response to a requirement under the Community Infrastructure Levy Regulations (2010) as amended (regulation 110, SI 2010/948). A person guilty of an offence under this regulation may face unlimited fines, two years imprisonment, or both.

Reasons for Approval and Summary of Relevant Development Plan Policies

In accordance with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 the following is a summary of the reasons for the grant of planning permission, together with a summary of the policies in the development plan which are relevant to the decision to grant permission.

The development plan for the site comprises: the London Plan (July 2011), London Borough of Tower Hamlets Core Strategy (September 2010), the London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007 and retained following the adoption of the Core Strategy) and the London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012).

These Reasons for Approval include a summary of the relevant planning policies as identified in the report to the Planning Committee of 23rd October 2012. The Planning Decisions Committee reached its decision on the planning application on the basis of the planning application documentation, the Committee report, and presentations at the Committee, including the application drawings and the comments of speakers who addressed the Planning Decisions Committee.

The Minutes of 23rd October 2012 Planning Decisions Committee meeting provide a detailed record of the discussion, debate and voting at the Committee meeting and the main issues raised in the consideration and determination of the application. The Minutes are available for inspection. The following issues in particular were discussed at the meeting:

- A Member asked if a change of use would preclude the use of the residential units as live/ work areas. The Director of Planning Policy and Decisions responded that the

Fish Island North and Fish Island Mid, only once the Fish Island Area Action Plan is in place to deliver the wider regeneration.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The site is within a designated Industrial Employment Area, and flood protection area.

The following summarised policies are relevant;

EMP1 – Promoting employment growth

Employment growth will be encouraged through the re-use of vacant land and derelict buildings, by the re-development and up-grading of sites already in employment uses; and through the development for employment uses of those site shown on the proposals map.

EMP8 – Small businesses

The growth and development of new or expanding businesses will be encouraged by the provision of a range of business units; subdivision of large surplus units; encouraging and identifying opportunities to provide managed workspace; temporary use of vacant buildings by small businesses; encouraging home-working and craft workshop or live/work schemes within new housing schemes provided there is no loss of residential amenity.

EMP10 – Business use, development elsewhere in the borough

Outside of the central area zones, business development will normally be permitted where the following are complied with: retention of premises which provide adequate loading and servicing facilities for the full range of B1 uses; would not give rise to unacceptable levels of traffic; where employment intensive uses, the development is well served by public transport; the local road network can accommodate the additional road traffic and servicing.

EMP11 – Industrial Employment Areas – location and purpose

Development within designated industrial employment areas to provide for the retention, expansion and growth in employment provided by general industrial and warehousing uses (B2 and B8) will generally be permitted provided that the development meet the needs of these uses, the use will not cause serious nuisance by way of traffic generation, noise, vibration or pollution to adjoining uses or the surrounding area; in industrial employment areas new environmentally intrusive uses or uses having a low employment density such as waste transfer stations, open storage yards, scrap yards and haulage depots will be resisted. Such uses may be considered where the site is underused and there is no reasonable prospect of other uses being viable and where detriment to noise and amenity is minimised.

EMP12 – Business use in Industrial Employment Areas

Within the Industrial Employment Areas, development for business use will normally permitted where the proposal; is designed principally to be suitable for industrial uses or forms part of a mixed use scheme for industrial uses, and does not conflict with proposals shown on the proposals map and listed in schedules.

EMP13 – Residential development in Industrial Employment Areas

Within the Industrial Employment Areas shown on the proposals map residential development will be permitted only where the loss of industrial land is justified, subject to the other policies in the plan.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policies are relevant;

Policy FI 4.2 - Local Industrial Location

Development resulting in the net loss of industrial floor space within Fish Island LIL will not be supported. The redevelopment of sites with existing industrial (class B1 (b & c), B2 and B8) floor space to include residential uses will only be supported if the existing industrial floor space is re-provided on site.

Policy FI 4.3 - Managing the redevelopment of former industrial land

Proposals for redevelopment of existing industrial sites outside of the SIL and LIL, for mixed use including residential will be considered favourably if they meet the following criteria. This will be applied flexibly depending on the individual site, subject to other policies in the AAP:

- The proposals would maintain or increase employment density;
- A relocation strategy for existing businesses affected by the redevelopment has been provided;
- The development would provide or contribute to the social and community facilities required to support new housing development;
- Proposals for mixed use development that include housing would not result in any significant conflict between employment and residential uses (including those on adjacent sites);
- Proposals would include flexible work space for small and medium enterprises and/or creative industries.

Policy FI 6.3 Fish Island South

Comprehensive redevelopment of existing small scale industrial units will be supported where it delivers the key principles of intensifying industrial floor space suitable for modern industry. New development should be designed to provide active building frontages to Wick Lane, to enhance natural surveillance and improve the quality of the built environment. Development either side of Wick Lane should be designed to respond positively to the existing live work units in terms of scale and location of the less intensive employment uses on the site.

Loss of Employment Generating Floor Space

The application involves no physical changes to the layout of the building, has no design or amenity implications and does not specifically preclude future use for employment as occupants will be able to work from home without the need for planning permission. The application seeks the retention of 1,030sqm of office (B1) floor space and 88sqm of commercial/restaurant/café (A1/A3) floor space which will be offered at subsidised rents of £3 per square foot in perpetuity, with a rent free period of 36 months. This affordable workspace will be secured through the section 106 agreement.

The drawings and schedules approved pursuant to the original permission to redevelop the site referenced a distinct split of living and working floor space. This current application for a change of use to purely residential would effectively constitute the loss of 6,018m² of employment generating floor space. However, as referenced above, it is considered that this floor space would in all likelihood never be implemented for its intended purpose. While it is accepted that this 'employment generating' floor space will be lost, it is not (and never has been) utilised as such.

It is considered that as the employment generating use of the application site was never implemented, along with the retention of B1(a) floor space at ground floor level, the proposed change of use would have negligible impact on the availability of B1 office space within Fish Island. The Fish Island AAP and LBTH Core Strategy generally support the provision of new residential accommodation in this area of Fish Island South, and it is considered that if this application were to be viewed in isolation without its Live/Work history the residential aspect would be considered favourably.

In order to bring this vacant building into sustainable use the loss of this unimplemented commercial floor space within the live/work units is considered to be acceptable in this instance. The applicants have demonstrated through their Toolkit Viability Assessment that a commuted sum for the loss of employment generating floor space would not be possible as it would affect the commercial viability of the development. Over 1,000m² of B1 floor space will still be provided at ground floor level at this site, at a severely discounted rent of £3 per square foot in perpetuity.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 2.17 – Strategic Industrial Locations

The Mayor will and boroughs and other stakeholders should promote, manage and, where appropriate, protect the Strategic Industrial Locations (SILs) as London's main reservoirs of industrial and related capacity including logistics, waste management, utilities, wholesale markets and some transport functions. Development proposals in SILs should be refused unless: they fall within the broad industrial type activities; they are part of a strategically coordinated process of SIL consolidation through an Opportunity Area Planning Framework or borough DPD; the proposal is for employment workspace to meet identified needs for small and medium sized enterprises or new emerging industrial sectors; the proposal is for small scale 'walk to' services for industrial occupiers such as workplace crèches or cafes. Development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial type activities.

Policy 3.3 – Increased housing supply

Working with relevant partners, the Mayor will seek provision of at least an annual average of 33,400 additional homes across London which will enhance the environment, improve housing choice and affordability and provide better quality accommodation for Londoners. Boroughs should seek to achieve and exceed the relevant minimum borough housing annual average target.

Policy 4.4 – Managing industrial land and premises

The Mayor will work with boroughs and other partners to:

- a) adopt a rigorous approach to industrial land management to ensure a sufficient stock of land and premises to meet the future needs of different types of industrial and related uses in different parts of London, including for good quality and affordable space;
- b) plan, monitor and manage release of surplus industrial land where this is compatible with a) above, so that it can contribute to strategic and local planning objectives, especially those to provide more housing, and, in appropriate locations, to provide social infrastructure and to contribute to town centre renewal.

London Borough of Tower Hamlets Core Strategy Development Plan Document adopted September 2010.

The following summarised policies are relevant;

SP01

Promote areas outside of town centres as places that support and assist in the creation of sustainable communities by promoting areas outside of town centres for primarily residential users as well as other supporting uses that are local in nature and scale.

SP02

Seek to deliver 43,275 new homes from 2010 to 2025 in line with the housing targets set out in the London Plan. This will be achieved by focusing the majority of new housing in the following places...Fish Island. Ensure new housing assists in the creation of sustainable places. Ensure all housing is appropriate is appropriate, high-quality, well-designed and sustainable.

SP06

Seek to maximise and deliver investment and job creation in the borough. Promote the creation of a sustainable, diversified and balanced economy by ensuring a sufficient range, mix and quality of employment uses and spaces, with particular focus on the small and medium enterprise sector. Retaining, promoting and encouraging flexible workspace in town centre, edge-of-town centre and main street locations. Encouraging and retaining the provision of units (of approximately 250sqm or less) suitable for small and medium enterprises). Ensure a managed approach to industrial land for the borough in order to assist in creating sustainable communities, this will be achieved through safeguarding and intensifying industrial land in the following areas (Fish Island South SIL). Working with the GLA and partners to co-ordinate a managed, phased release of strategic industrial land in Fish Island North and Fish Island Mid, only once the Fish Island Area Action Plan is in place to deliver the wider regeneration.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The site is within a designated Industrial Employment Area, and flood protection area.
The following summarised policies are relevant;

DEV4 – Planning obligations

Seek to enter into planning obligations as appropriate and reasonable the scale and nature of development and are necessary for a development to proceed.

EMP1 – Promoting employment growth

Employment growth will be encouraged through the re-use of vacant land and derelict buildings, by the re-development and up-grading of sites already in employment uses; and through the development for employment uses of those sites shown on the proposals map.

EMP8 – Small businesses

The growth and development of new or expanding businesses will be encouraged by the provision of a range of business units; subdivision of large surplus units; encouraging and identifying opportunities to provide managed workspace; temporary use of vacant buildings by small businesses; encouraging home-working and craft workshop or live/work schemes within new housing schemes provided there is no loss of residential amenity.

EMP10 – Business use, development elsewhere in the borough

Outside of the central area zones, business development will normally be permitted where the following are complied with: retention of premises which provide adequate loading and servicing facilities for the full range of B1 uses; would not give rise to unacceptable levels of traffic; where employment intensive uses, the development is well served by public transport; the local road network can accommodate the additional road traffic and servicing.

EMP11 – Industrial Employment Areas – location and purpose

Development within designated industrial employment areas to provide for the retention, expansion and growth in employment provided by general industrial and warehousing uses (B2 and B8) will generally be permitted provided that the development meet the needs of these uses, the use will not cause serious nuisance by way of traffic generation, noise, vibration or pollution to adjoining uses or the surrounding area; in industrial employment areas new environmentally intrusive uses or uses having a low employment density such as waste transfer stations, open storage yards, scrap yards and haulage depots will be resisted. Such uses may be considered where the site is underused and there is no reasonable prospect of other uses being viable and where detriment to noise and amenity is minimised.

EMP12 – Business use in Industrial Employment Areas

Within the Industrial Employment Areas, development for business use will normally be permitted where the proposal; is designed principally to be suitable for industrial uses or forms part of a mixed use scheme for industrial uses, and does not conflict with proposals shown on the proposals map and listed in schedules.

EMP13 – Residential development in Industrial Employment Areas

Within the Industrial Employment Areas shown on the proposals map residential development will be permitted only where the loss of industrial land is justified, subject to the other policies in the plan.

HSG7 – Dwelling mix and type

New housing developments will be expected to provide a mix of unit sizes, including a substantial portion of family dwellings.

HSG13 – Conversions and internal standards for residential developments

All new housing developments should have adequate provision of internal residential space in order to function effectively.

change of use would not preclude work being undertaken from those units as that would be permitted development but it would not permit the occupier of a residential unit to bring in employees to work in the residential units, as that would mean that the unit was primarily a place of work.

- A Member sought clarification in relation to the financial payment due to arise from the section 106 contribution. The Chief Planning Officer referred the Committee to Appendix 1 of the report to Committee and stated that the financial contribution would be approximately £1.9 million overall, comprised of around £557,000 for off-site affordable housing, the value of the commercial subsidy for the ground floor and the Mayoral Community Infrastructure Levy (CIL).
- A Member asked about the planting on the site and asked whether it connected to the river path. The Committee heard that the planting provided allowed for a riverside path and that as adjoining sites were developed, the path and planting would link up.

On balance and taking into account material considerations, the Planning Decisions Committee resolved to delegate authority to the Director of Planning Policy and Decisions to grant planning permission, subject to the satisfactory completion of a legal agreement under section 106 of the Town and Country Planning Act 1990 (in accordance with the heads of terms included in the Committee report), and subject to the conditions and informatives set out in the report to the Committee, and that the Director of Planning Policy and Decisions be granted authority to make any refinements, amendments, additions and/or deletions to the conditions and informatives as she considers reasonably necessary.

Each of the Reasons set out below reflects the topic and issue based approach in the Assessment of Planning Issues section of the report to Planning Decisions Committee. Each reason is structured in the same way, covering the principal issues and any comments or objections received and how these have been considered. The conclusion provides a summary in relation to relevant development plan policies.

Change of Use

Live-Work units were intended to help reduce car use and traffic levels, encourage the efficient use of land, reduce start-up costs for new businesses, drive economic regeneration, encourage mixed-use developments and support flexible working. However, Live-Work units were only typically occupied by a certain limited number of commercial uses, which thereby only had a limited effect on reflecting the benefits outlined. Occupants therefore often tended to be small, often sole-trader organisations which could otherwise operate from a residential property without the need for planning permission. A large proportion of Live-Work units were never used in the way they were intended, and inevitably were often being used simply as residential properties.

The London Borough of Tower Hamlets now consider Live-Work to be unsuccessful as a concept, and therefore no longer generally consider proposals for this use to be acceptable (the Council's policy approach to composites of residential and commercial space within the same self-contained unit is to resist them where the premises is not used "principally as a private residence" - Tower Hamlets LDF Submission Document Core Evidence Base: Live-Work Report, 2006). The use of the property for residential has been established through the permission for use of the units as live-work units. It is therefore considered that the proposed change of use from Live-Work to residential is acceptable in this location as a residential population would have been present on the site even if the Live-Work consent had been executed successfully. The Fish Island AAP does allow for residential development within this area within a Local Industrial Location. The London Borough of Tower Hamlets confirmed in the consultation response that it supports the principal of conversion of the live work units to provide new housing, and notes that this will contribute towards meeting local housing need.

The LLDC PPDT consider that the change of use of the development from Live/Work to residential is acceptable in this location, would have no significant negative impact on the ability of Fish Island to serve its designation as a Local Industrial Location, and would help achieve a positive increase on house numbers within the London Borough of Tower Hamlets.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 2.17 – Strategic Industrial Locations

The Mayor will and boroughs and other stakeholders should promote, manage and, where appropriate, protect the Strategic Industrial Locations (SILs) as London's main reservoirs of industrial and related capacity including logistics, waste management, utilities, wholesale markets and some transport functions. Development proposals in SILs should be refused unless: they fall within the broad industrial type activities; they are part of a strategically coordinated process of SIL consolidation through an Opportunity Area Planning Framework or borough DPD; the proposal is for employment workspace to meet identified needs for small and medium sized enterprises or new emerging industrial sectors; the proposal is for small scale 'walk to' services for industrial occupiers such as workplace crèches or cafes. Development proposals within or adjacent to SILs should not compromise the integrity or effectiveness of these locations in accommodating industrial type activities.

Policy 3.3 – Increased housing supply

Working with relevant partners, the Mayor will seek provision of at least an annual average of 33,400 additional homes across London which will enhance the environment, improve housing choice and affordability and provide better quality accommodation for Londoners. Boroughs should seek to achieve and exceed the relevant minimum borough housing annual average target.

Policy 4.4 – Managing industrial land and premises

The Mayor will work with boroughs and other partners to:

- a) adopt a rigorous approach to industrial land management to ensure a sufficient stock of land and premises to meet the future needs of different types of industrial and related uses in different parts of London, including for good quality and affordable space;
- b) plan, monitor and manage release of surplus industrial land where this is compatible with a) above, so that it can contribute to strategic and local planning objectives, especially those to provide more housing, and, in appropriate locations, to provide social infrastructure and to contribute to town centre renewal.

London Borough of Tower Hamlets Core Strategy Development Plan Document adopted September 2010.

The following summarised policies are relevant;

SP01

Promote areas outside of town centres as places that support and assist in the creation of sustainable communities by promoting areas outside of town centres for primarily residential users as well as other supporting uses that are local in nature and scale.

SP02

Seek to deliver 43,275 new homes from 2010 to 2025 in line with the housing targets set out in the London Plan. This will be achieved by focusing the majority of new housing in the following places...Fish Island. Ensure new housing assists in the creation of sustainable places. Ensure all housing is appropriate, high-quality, well-designed and sustainable.

SP06

Seek to maximise and deliver investment and job creation in the borough. Promote the creation of a sustainable, diversified and balanced economy by ensuring a sufficient range, mix and quality of employment uses and spaces, with particular focus on the small and medium enterprise sector. Retaining, promoting and encouraging flexible workspace in town centre, edge-of-town centre and main street locations. Encouraging and retaining the provision of units (of approximately 250sqm or less) suitable for small and medium enterprises). Ensure a managed approach to industrial land for the borough in order to assist in creating sustainable communities, this will be achieved through safeguarding and intensifying industrial land in the following areas (Fish Island South SIL). Working with the GLA and partners to co-ordinate a managed, phased release of strategic industrial land in

HSG16 – Amenity space

All new housing developments should include an adequate provision of amenity space.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policies are relevant;

Policy FI 4.3 - Managing the redevelopment of former industrial land

Proposals for redevelopment of existing industrial sites outside of the SIL and LIL, for mixed use including residential will be considered favourably if they meet the following criteria. This will be applied flexibly depending on the individual site, subject to other policies in the AAP:

- The proposals would maintain or increase employment density;
- A relocation strategy for existing businesses affected by the redevelopment has been provided;
- The development would provide or contribute to the social and community facilities required to support new housing development;
- Proposals for mixed use development that include housing would not result in any significant conflict between employment and residential uses (including those on adjacent sites);
- Proposals would include flexible work space for small and medium enterprises and/or creative industries.

Policy FI 4.4 Protecting and enhancing CCIs and SMEs

New development should include flexible employment floorspace suitable for occupation by CCIs and SMEs and should include a proportion of employment floorspace provided at below market rents to attract new start up businesses.

Policy FI 6.3 Fish Island South

Comprehensive redevelopment of existing small scale industrial units will be supported where it delivers the key principles of intensifying industrial floor space suitable for modern industry. New development should be designed to provide active building frontages to Wick Lane, to enhance natural surveillance and improve the quality of the built environment. Development either side of Wick Lane should be designed to respond positively to the existing live work units in terms of scale and location of the less intensive employment uses on the site.

Affordable Housing

As the development has already been constructed there are particular issues associated with the provision of affordable housing on-site. The applicant has confirmed that Registered Social Landlords were approached, but the layout and specification of the units were not adoptable to them. Given that on-site direct provision is not possible in this case, Officers consider that funding for an off-site provision of affordable housing would, in this instance be appropriate and accord with relevant planning policies. The off-site affordable housing contribution has been considered in light of the viability of the development, and will be secured through the section 106 legal agreement that accompanies this planning permission.

The London Borough of Tower Hamlets commented that the application does not propose any on-site affordable housing and states that the nature of the units as built would not be attractive to registered providers. The planning statement refers to the provision of an off-site financial contribution towards affordable housing in lieu of on-site provision although there is no analysis of how this would support affordable housing delivery or whether this would sufficiently off-set the need for on-site provision of 35% by habitable room. This sum is substantially below the sum set aside to provide commercial rent subsidy. There is no policy justification to provide subsidised commercial units and the London Borough of Tower Hamlets question the need to inject such subsidy to development of employment floor space within a well established industrial employment location.

The London Borough of Tower Hamlets affordable housing policies, including SP02 in the Core Strategy, are subject to viability, a toolkit assessment of which has been provided as part of this

application. The submitted toolkit viability assessment was reviewed by an independent advisor, who was broadly in agreement with their findings and increased the off-site contribution while still maintaining a viable scheme.

It is considered that a commercial subsidy would assist businesses who would not normally be able to afford this kind of floor space an opportunity to establish themselves in the borough. The applicants have stated verbally that while the ground floor level has been placed on the lease market at standard rates, no interest has been received.

The contribution has been assessed and justified in line with the CIL Regulation 122 and National Planning Policy Framework tests. The contribution is necessary to make the development acceptable in planning terms in order to meet the policy requirements as set out by the London Plan, and the London Borough of Tower Hamlets. The contribution is directly related to the development as the sum has been calculated through a viability assessment, and is considered to be of a fair and reasonable scale.

The London Borough of Tower Hamlets also commented that the creation of residential development will give rise to a number of planning impacts, including additional pressure on local infrastructure and that, the scheme would not provide for sufficient mitigation of these impacts. However, it is considered that the creation of purely residential floor space at upper floor levels will give no further rise to pressure on local infrastructure beyond what would be experienced by as a result of the previously approved live/work development.

Subject to securing the off-site affordable housing contribution, the proposal is considered to comply with the following policies.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 3.3 – Increased housing supply

Working with relevant partners, the Mayor will seek provision of at least an annual average of 33,400 additional homes across London which will enhance the environment, improve housing choice and affordability and provide better quality accommodation for Londoners. Boroughs should seek to achieve and exceed the relevant minimum borough housing annual average target.

Policy 3.5 – Quality and design of housing developments

Housing developments should be of the highest quality internally, externally and in relation to their context and to the wider environment. The design of all new housing developments should enhance the quality of local places, taking into account physical context, local character, density, tenure and land use mix, and relationships with, and provision of public, communal and open spaces, taking particular account of the needs of children and older people. The design of all new dwellings should take account of factors relating to 'arrival' at the building and meet the dwelling space standards, have adequately sized rooms and convenient and efficient room layouts, meet the changing needs of Londoners over their lifetimes, address climate change adaptation and mitigation and social inclusion objectives and should be conceived and developed through an effective design process.

Policy 3.8 – Housing choice

Londoners should have a genuine choice of homes that they can afford and which meet their requirements for different sizes and types of dwellings in the highest quality environments. Boroughs should work with the Mayor and local communities to identify the range of needs likely to arise within their areas.

London Borough of Tower Hamlets Core Strategy Development Plan Document adopted September 2010.

The following summarised policies are relevant;

SP01

Promote areas outside of town centres as places that support and assist in the creation of sustainable communities by promoting areas outside of town centres for primarily residential users as well as other supporting uses that are local in nature and scale.

SP02

Seek to deliver 43,275 new homes from 2010 to 2025 in line with the housing targets set out in the London Plan. This will be achieved by focusing the majority of new housing in the following places...Fish Island. Ensure new housing assists in the creation of sustainable places. Ensure all housing is appropriate is appropriate, high-quality, well-designed and sustainable.

SP06

Seek to maximise and deliver investment and job creation in the borough. Promote the creation of a sustainable, diversified and balanced economy by ensuring a sufficient range, mix and quality of employment uses and spaces, with particular focus on the small and medium enterprise sector. Retaining, promoting and encouraging flexible workspace in town centre, edge-of-town centre and main street locations. Encouraging and retaining the provision of units (of approximately 250sqm or less) suitable for small and medium enterprises). Ensure a managed approach to industrial land for the borough in order to assist in creating sustainable communities, this will be achieved through safeguarding and intensifying industrial land in the following areas (Fish Island South SIL). Working with the GLA and partners to co-ordinate a managed, phased release of strategic industrial land in Fish Island North and Fish Island Mid, only once the Fish Island Area Action Plan is in place to deliver the wider regeneration.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The following summarised policies are relevant;

DEV4 – Planning obligations

Seek to enter into planning obligations as appropriate and reasonable the scale and nature of development and are necessary for a development to proceed.

EMP13 – Residential development in Industrial Employment Areas

Within the Industrial Employment Areas shown on the proposals map residential development will be permitted only where the loss of industrial land is justified, subject to the other policies in the plan.

HSG7 – Dwelling mix and type

New housing developments will be expected to provide a mix of unit sizes, including a substantial portion of family dwellings.

HSG13 – Conversions and internal standards for residential developments

All new housing developments should have adequate provision of internal residential space in order to function effectively.

HSG16 – Amenity space

All new housing developments should include an adequate provision of amenity space.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policy is relevant;

Policy FI 4.5 Affordable and Family Housing

For schemes of 10 or more homes seeks a minimum of 35 per cent affordable housing with a split of 30 per cent intermediate and 70 per cent social rented housing. Affordable rented accommodation

only considered acceptable where social rented provision would render the proposals unviable. Seeks a provision of a range of housing types and sizes.

Amenity

The use of the premises as residential only is considered not to cause material harm to neighbouring amenity, nor to the business premises adjacent (at 415 Wick Lane). The use of the property for solely residential purposes is considered not to affect the amount of open space required at the 419 Wick Lane development, nor to require any changes to the refuse/recycling arrangements at the development.

The proposed change of use will extend the living area of each individual dwelling, and not effect the dwelling mix, and will therefore have no effect on the child yield of the development, and as such no further outdoor children's play areas are proposed. This is considered to be acceptable, as no large family sized dwellings are proposed on the site.

There will be no increase in noise as a result of the change of use from Live-Work to residential. There will be no increase in overlooking or loss of privacy to neighbouring properties as a result of this application do to their being no external alterations proposed to the development.

The use of the property for solely residential purposes is considered not to affect the amount of open space required at the 419 Wick Lane development, nor to require any changes to the refuse/recycling arrangements at the development.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The following policies as summarised are relevant;

DEV2 – Environmental requirements

Seeks to protect the amenity of occupiers and neighbour buildings, protect areas of nature conservation, and to ensure that sustainable design and construction is included within the scheme.

DEV50 – Noise

Noise generated by a scheme and any mitigation measures proposed taken into account to with the aim of ensuring appropriate protection of residential amenity from noise disturbance.

HSG13 – Conversions and internal standards for residential developments

All new housing developments should have adequate provision of internal residential space in order to function effectively.

HSG16 – Amenity space

All new housing developments should include an adequate provision of amenity space.

Parking and transport

The change in use from live/work to residential would not change the maximum parking provision required by the London Plan's parking standard for B1 and residential uses in outer London areas and 1-2 bed units. There is a finite provision for car parking within the structure of the development and it is not proposed to amend this. The proposal is therefore considered to be acceptable in terms of the parking provision and associated transport impacts. Payment of the Mayoral Community Infrastructure Levy would ensure the development complies with policy 6.5 of the London Plan.

London Plan (July 2011)

The following policy as summarised is relevant;

Policy 6.5 – Funding Crossrail and other strategically important transport infrastructure

Contributions will be sought towards the implementation of Crossrail from developments likely to add to, or create, congestion on London's rail network that Crossrail is intended to mitigate.

London Borough of Tower Hamlets UDP (as saved by directive from the Secretary of State, September 2007)

The following summarised policy is relevant;

T16 – Traffic priorities for new development

In considering development proposals, account will be taken of the operational requirements of the proposed use, and the impact of the traffic that is likely to be generated. Considerations to be taken into account are;

- Danger or significant inconvenience to other road users including pedestrians and cyclists
- Obstruction of access for emergency services vehicles
- Detrimental impact on public transport operations
- Obstruction of the movement of traffic on major roads
- A deterioration in the environment of residential and other sensitive areas.

Sustainability

The applicant considers that trying to retrofit or replace materials and infrastructure that has never been used and are performing to their design intent would be more environmentally damaging than it is beneficial. The embodied carbon footprint from the waste created and the embodied carbon of new materials, and the carbon footprint from additional operations, is unlikely to ever be recovered from energy use savings under the guidance of EcoHomes or Code for Sustainable Homes. The building was constructed to 2006-2009 Building Regulation with good levels of insulation and an energy efficient design. The Applicant provided some targets that are considered to be sensible and more achievable that could be committed to improved efficiency.

Officers accept that retrofitting the completed development to Code or BREEAM standards is likely to be wasteful in terms of removing new fittings and potentially larger elements of the building. The measures set out above are considered to be proportional and appropriate for the completed development that are likely to improve the sustainability of the building, especially when considering the limited material difference between the building being occupied as live-work units or dwellings. A condition is included to capture these sustainability measures.

London Plan (July 2011)

The following summarised policies are relevant;

Policy 5.2 – Minimising carbon dioxide emissions

Development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the energy hierarchy:

- be lean - use less energy
- be clean - supply energy efficiently
- be green - use renewable energy

Major development proposals should meet the following targets for carbon dioxide emissions reduction in buildings. These targets are expressed as minimum improvements over the Target Emission Rate outlined in the national Building Regulations; 2010-2013 25% improvement on 2010 Building Regulations for non-domestic buildings. Major development proposals should include a detailed energy assessment.

Policy 5.3 – Sustainable design and construction

The highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new development. Development proposals should demonstrate that sustainable design standards are integral to the proposal, including its construction and operation, and ensure that they are considered at the beginning of the design process. Major development proposals should meet the minimum standards outlined in the Mayor's supplementary planning guidance on Sustainable Design and Construction.

London Borough of Tower Hamlets Core Strategy (adopted September 2010)

The following policies (in summarised form) are relevant.

Policy SO3 – Achieving wider sustainability

Seeks to achieve environmental, social and economic development simultaneously. Where trade offs between competing objectives are unavoidable, this will be realised by: planning for healthy environments that recognise the important health related benefits of well designed neighbourhoods, high quality housing, access to employment, access to open space and to shops and services; mitigating and adapting the built environment to climate change; minimising the use of natural resources; protecting and enhancing the quality of the environment; improving air, land and water quality; ensuring the capacity of existing and new infrastructure is adequate.

Policy SP05 – Waste

Implement the Waste Management Hierarchy of reduce, reuse and recycle; requiring non-waste developments to appropriately design and plan for waste storage and recycling facilities; requiring all developments to reduce and re-use waste from construction and demolition; and supporting developments that use recycled materials.

London Borough of Tower Hamlets Core Strategy and Development Control Plan Interim Planning Guidance (October 2007)

The following policy as summarised is relevant;

DEV5 – Sustainable Design

The Council will expect all major development to use best practice sustainable design measures including, but not limited to, the following: a) maximising the use of natural systems, including the incorporation of Passive Solar Design measures; b) minimising energy use; c) designing out negative impacts on microclimate; d) protecting and, where possible, enhancing site biodiversity; and e) preventing the possibility of contamination to land, water or air.

London Borough of Tower Hamlets Fish Island Area Action Plan Development Plan Document (September 2012)

The following summarised policy is relevant;

Policy FI 7.1 Climate Change and Energy Efficiency

Proposals should deliver sustainable development by exploring opportunities to create a low or zero carbon area, minimise carbon emissions through energy efficient and renewable technologies, use of decentralised energy networks, ensuring developments enhance biodiversity and adopt sustainable design and construction measures. Seeks to implement a local heat and power network including safeguarding of opportunities to establish connections across waterways, highways and private land.

Positive and Proactive Statement

In accordance with the National Planning Policy Framework and with Article 31 of the Town and Country Planning (Development Management Procedure) (England) Order 2010 (as amended), the following statement explains how the LLDC as Local Planning Authority has worked with the applicant in a positive and proactive manner based on seeking solutions to problems arising in relation to dealing with this planning application.

The proposed development has been subject to pre-application discussions between the applicant and the Local Planning Authority which enabled considerations in respect of the proposed development to be discussed at an early opportunity and before the planning application was submitted.

Following submission of the planning application, the Local Planning Authority continued to work with the applicant in a positive and proactive manner. The applicant responded to the local planning authority through the submission of additional information in order to address the issues identified by the Local Planning Authority in dealing with the planning application. This solution has enabled planning permission to be granted. The planning application complies with the planning policies as stated above and was determined in a timely manner.

The applicant has been kept informed of the progress of the application and has been given the opportunity to respond to and address any problems arising, and to address the Committees.

The site owner, London Borough of Tower Hamlets and the Local Planning Authority have entered into a section 106 agreement, the obligations in which have been a material consideration in the decision to grant planning permission.

Dated this: 19th December 2012

A handwritten signature in cursive script, appearing to read 'Vivienne Ramsey', written in dark ink.

Vivienne Ramsey
Director of Planning Policy and Decisions
London Legacy Development Corporation

London Legacy Development Corporation
TOWN AND COUNTRY PLANNING ACT 1990

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, then you can appeal to the Secretary of State for Communities and Local Government under Section 78 of the Town and Country Planning Act 1990.
- * If you want to appeal then you must do so within SIX months of the date of this notice, using a form, which is available from the Planning Inspectorate, (a copy of which must be sent to the London Legacy Development Corporation Planning Policy and Decisions Team) or complete an application online.
- * The Planning Inspectorate, Temple Quay House, 2 The Square, Temple Quay, Bristol, BS1 6PN (e-mail: enquiries@pins.gsi.gov.uk) or (Tel: 0117 372 8000). To make an appeal online, please use www.planningportal.gov.uk/pes. The Inspectorate will publish details of your appeal on the internet. This may include copies of documentation from the original planning application and relevant supporting documents supplied to the local authority, and or information, including personal information belonging to you that you are happy will be made available in this way. If you supply personal information belonging to a third party please ensure you have their permission to do so. More detailed information about data protection and privacy matters is available on the Planning Portal.
- * 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.
- * The Secretary of State need not consider an appeal if it seems to him that the Local Planning Authority could not have granted it without the conditions it imposed, having regard to the statutory requirements, to the provisions of the development order and to any directions given under the order.
- * In practice, the Secretary of State does not refuse to consider appeals solely because the Local Planning Authority based its decision on a direction given by him.

Purchase Notice

- * If either the Local Planning Authority or the Secretary of State refuses permission to develop land or grants it subject to conditions, the owner may claim that he can neither put the land to a reasonably beneficial use in its existing state nor can he render the land capable of a reasonably beneficial use by carrying out any development which has been or would be permitted.
- * In these circumstances, the owner may serve a purchase notice on the Council in whose area the land is situated. This notice will require the Council to purchase his interest in the land in accordance with Part VI of the Town and Country Planning Act 1990.