



# REGULATORY SERVICES COMMITTEE

12 November 2015

# REPORT

**Subject Heading:**

P1340.15 Plots 7 & 8 Beam Reach  
Business Park 5, Consul Avenue,  
Rainham

Continuation of development of two tall industrial units, the installation of printing presses and associated equipment & buildings including offices, toilets and plant rooms without compliance with condition 10 (required energy efficiency and sustainability standards) attached to planning permission reference: U0006.06 (Received 9 September 2015)

**Ward:**

South Hornchurch

**Report Author and contact details:**

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**Policy context:**

Local Development Framework  
The London Plan  
National Planning Policy Framework  
National Planning Policy Practice  
Guidance

**Financial summary:**

Not relevant

The subject matter of this report deals with the following Council Objectives

Havering will be clean and its environment will be cared for	[x]
People will be safe, in their homes and in the community	[x]
Residents will be proud to live in Havering	[x]

## SUMMARY

This is an application made under Section 73 of the Town and Country Planning Act 1990 (as amended) and seeks the removal of one of the conditions imposed following the grant of planning permission. The application in question is application reference: U0006.06 which was for two tall industrial units, the installation of printing presses and associated equipment and buildings including offices, toilets and plant rooms and was granted planning permission, subject to a legal agreement, by the London Thames Gateway Development Corporation in 2007. The decision notice and subsequent legal agreement are broken down into conditions and obligations relating to Plot 7 and Plot 8 with condition 10 (to which this application relates) requiring the development of Plot 7 to achieve a minimum BREEAM rating of Very Good.

This application seeks the removal of this condition and the removal of the associated section of the S106 (Section 3 – Use of Renewable Energy and Reduction in Carbon Emissions) which requires the submission of Annual Renewable Reports in respect of carbon emissions. As background to the application, this application has been submitted by a prospective buyer of Plot 7 and during the due diligence process it became apparent that the building had not been constructed in compliance with condition 10 (i.e. to BREEAM Very Good). An assessment of the build construction has demonstrated that it would not be feasible to achieve this retrospectively without in effect demolishing the building and starting again. The application therefore seeks to regularise the existing situation by removing the condition.

Although the building has not been constructed to the original required standard, and BREEAM Very Good remains consistent with relevant planning policy, it is not considered that it would be expedient to pursue enforcement action. That being said to offset the carbon impact, if the condition is removed, it is recommended that as a replacement for this and the obligations relating to energy efficiency being removed, a requirement for a financial contribution towards the Council's Carbon Reduction Fund be added to the S106. The figure suggested for the Fund is £66,000 which has been calculated based on the building emission rate (kgCO<sub>2</sub>/m<sup>2</sup>), achieving a 10% reduction, over a 25 year period, and the Zero Carbon Hub price of £60 per tonne.

## RECOMMENDATIONS

That the Committee notes that the proposal is unacceptable as it stands but would be acceptable subject to a variation to the existing Deed made pursuant to Section 106 of the Town and Country Planning Act 1990 to:

- Remove the existing Section 3 (Use of Renewable Energy and Reduction in Carbon Emissions) of Schedule 1 – Covenants in Respect of Plot 7; and
- Secure a financial contribution of £66,000 towards the London Borough of Havering's Carbon Reduction Fund, prior to any further occupation of Plot 7.

- All contribution sums shall include interest to the due date of expenditure and all contribution sums to be subject to indexation from the date of completion of the Section 106 agreement to the date of receipt by the Council.
- The Developer/Owner to pay the Council's reasonable legal costs associated with the Legal Agreement prior to the completion of the agreement irrespective of whether the agreement is completed.
- Payment of the appropriate planning obligations monitoring fee prior to the completion of the agreement.

It is therefore recommended that the Head of Regulatory Services be authorised to make the aforementioned variation to the existing Deed and, upon completion of that obligation, re-issue planning permission as per the conditions below. The decision notice for application reference: U0006.06, issued by the London Thames Gateway Development Corporation, together with the appropriate section of the S106 are attached at Appendix 1 and 2, for reference in this regard and, to confirm, details pursuant to conditions 3, 4, 6, 7, 9, 11, 15, 16 and 17 have previously been approved by the London Thames Gateway Development Corporation.

**THE CONDITIONS TO WHICH THE PERMISSION IS SUBJECT ARE AS FOLLOWS FOR PLOT 7:**

1. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved drawings, documents and specifications of application reference: U0006.06:

Drawing numbers 05-2118-P001; P002; P003; P010 rev b; P011 rev a; P012; P013; P014; P015; P016; P017 rev c; P018 rev c; P020; P021; P022; P040 rev f; P041 rev e; P042 rev d; and P043 rev c

Documents:

- Provisional BREEAM Assessment - White Young Green dated December 2006;
- Environmental Statement - Loach Construction dated September 2006;
- Method Statement for the Installation of Driven Cast In-Situ Piles Leach Construction dated 26th September 2006;
- Extended Phase 1 Habitat Survey - White Young Green dated October 2006;
- Flood Risk Assessment - White Young Green dated 23rd November 2006;
- Ground Contamination Desk Top Study Report - White Young Green dated October 2006;
- Low and Zero Carbon Study - White Young Green dated December 2006;
- Interim Sustainability Statement - White Young Green dated November 2006;
- Transportation Assessment - White Young Green dated 21st December 2006; and
- Planning Overview Statement - Robinson Keller and Gallagher 2006.

As amended by application reference: P1340.15 and the following documents:

- Energy Appraisal – Icení Projects dated September 2015;
- Sustainability Appraisal – Icení Projects dated September 2015; and
- Planning Statement – Icení Projects dated September 2015

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out, that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted and to ensure that the development accords with relevant policies of the development plan.

2. The car parking layout and motorcycle parking facilities shall be permanently maintained as per the details approved under reference: LTGDC-07-141-AOD.

Reason: To ensure that car parking accommodation is made permanently, in the interests of highway safety and to comply with policies CP9, CP10, DC32 and DC33 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 2.8, 6.3, 6.11, 6.12 and 6.13 of the London Plan.

3. The secure, covered cycle storage facilities shall be permanently retained and made available for use as per the details approved under reference: LTGDC-07-142-AOD.

Reason: In the interests of providing a wide range of facilities for non-motor car residents, in the interests of sustainability and to comply with policies CP9, CP10 and DC35 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 2.8, 6.12 and 6.13 of the London Plan.

4. No solid matter during construction and no material storage thereafter shall be stored within 10m of the banks of the retained habitat.

Reason: To prevent pollution of the natural habitat and to comply with policies CP15, CP16, DC58, DC59 and DC60 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.19 and 7.21 of the London Plan.

5. Hard and soft landscaping shall be as per details approved under reference: LTGDC-08-118-AOD. Any tree or plant, which within a period of 5 years, from the completion of the development, that dies, is removed or becomes seriously damaged or diseased shall be replaced in the next planting season with another similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In accordance with Section 197 of the Town and Country Planning 1900 (as amended), to enhance the visual amenity of the development and to comply with policies CP15, CP16, CP17, DC58, DC59, DC60 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.19 and 7.21 of the London Plan.

6. The 2.1m by 2.1m pedestrian visibility splay either side of each access, set back to the boundary of the public footway, shall be retained clear of any obstruction or object higher than 1m.

Reason: In the interests of highway safety and to comply with policies CP10, CP17, DC32, DC36 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 2.8, 6.3, 6.11 and 6.12 of the London Plan.

7. No goods, spoils or materials shall be stored on the site in the open without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to comply with policies CP16, CP17, DC48, DC52, DC58, DC59, DC60 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.4, 7.6, 7.9 and 7.21 of the London Plan.

8. Lighting of all external areas of the site, including pedestrian routes within and at the entrances of the site, shall be installed and maintained as per the details approved under reference: LTGDC-08-118-AOD.

Reason: In the interests of visual amenity and to comply with policies CP15, CP16, CP17, DC56, DC58, DC59 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.4, 7.6 and 7.19 of the London Plan.

9. Noise levels from any plant or machinery, when expressed as an equivalent continuous sound level LAeq (1 hour), shall not at any time exceed LA90 - 5dB, when measured at the boundary with the nearest noise sensitive property. With regard to this, the Local Planning Authority may at any time request that noise monitoring be undertaken to demonstrate this, with the results of such monitoring being submitted to the Local Planning Authority, for review, within one month of the date of request.

Reason: To protect local amenity and to comply with policies CP17, DC55, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.4, 7.15 and 7.19 of the London Plan.

10. No soakways shall be constructed in contaminated ground.

Reason: To prevent pollution of groundwater and to comply with policies CP15, CP16, CP17, DC48, DC49, DC51, DC53, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 5.12, 5.14, 5.21 and 7.19 of the London Plan.

11. The surface and foul drainage system for the development hereby approved shall be carried out in accordance with the approved details.

Reason: To prevent pollution of the local water environment and to comply with policies CP15, CP16, CP17, DC48, DC49, DC51, DC53, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 5.12, 5.14, 5.21 and 7.19 of the London Plan.

12. Refuse storage including noise output, odour control systems and termination points shall be as per the details approved under reference: LTGDC-07-144-AOD.

Reason: To ensure adequate and hygienic refuse disposal and to comply with policies CP15, CP17, DC36, DC40, DC52, DC55 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 7.4, 7.14 and 7.15 of the London Plan.

13. Fencing and gates on the site shall be installed and maintained as per the details approved under reference: LTGDC-07-144-AOD.

Reason: To safeguard the appearance of the premises and the character of the immediate area and to comply with policies CP17, DC36, DC40 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.2 and 7.4 of the London Plan.

**THE CONDITIONS TO WHICH THE PERMISSION IS SUBJECT ARE AS FOLLOWS FOR PLOT 8:**

14. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved drawings, documents and specifications of application reference: U0006.06:

Drawing numbers 05-2118-P001; P002; P003; P010 rev b; P011 rev a; P012; P013; P014; P015; P016; P017 rev c; P018 rev c; P020; P021; P022; P040 rev f; P041 rev e; P042 rev d; and P043 rev c

Documents:

- Provisional BREEAM Assessment - White Young Green dated December 2006;
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- Extended Phase 1 Habitat Survey - White Young Green dated October 2006;
- Flood Risk Assessment - White Young Green dated 23rd November 2006;
- Ground Contamination Desk Top Study Report - White Young Green dated October 2006;
- Low and Zero Carbon Study - White Young Green dated December 2006;
- Interim Sustainability Statement - White Young Green dated November 2006;
- Transportation Assessment - White Young Green dated 21st December 2006; and
- Planning Overview Statement - Robinson Keller and Gallagher 2006.

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out, that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted and to ensure that the development accords with relevant policies of the development plan.

15. Prior to commencement of the development hereby permitted, full details of any proposed fencing and gates to be erected on the site shall be submitted to and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained thereafter in accordance with the approved details.

Reason: Insufficient information has been supplied with the application to assess the impact of the fencing and gates proposed to be erected. Submission of such details will safeguard the appearance of the premises and the character of the immediate area and also seek to ensure compliance with policies CP17, DC36, DC40 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.2 and 7.4 of the London Plan.

16. Prior to commencement of the development hereby permitted, details of the proposed car parking layout and motorcycle parking facilities shall be submitted to and approved in writing by the Local Planning Authority. The approved car parking facilities are to be constructed, surfaced and marked out prior to occupation of the development and shall be permanently maintained thereafter.

Reason: Insufficient information has been supplied with the application to assess the car parking layout and motorcycle parking facilities proposed. Submission of such details will seek to ensure that car parking accommodation is made permanently available, in the interests of highway

safety, and compliant with policies CP9, CP10, DC32 and DC33 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 2.8, 6.3, 6.11, 6.12 and 6.13 of the London Plan.

17. Prior to commencement of the development hereby permitted, details of the proposed cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. Cycle storage facilities shall be provided in accordance with the approved details, prior to first occupation of the building. Such facilities shall be permanently retained and made available for use thereafter.

Reason: Insufficient information has been supplied with the application to assess the adequacy of the proposed cycle storage facilities. Submission of such details will seek to ensure that a wide range of facilities for non-motor car residents is provided, in the interests of sustainability, and in compliance with policies CP9, CP10 and DC35 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 2.8, 6.12 and 6.13 of the London Plan.

18. Prior to commencement of the development hereby permitted, samples of all external materials to be used on the building shall be submitted to and approved in writing by the Local Planning Authority. The development shall be constructed in accordance with the approved details.

Reason: To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and to comply with policies CP17 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.4 and 7.6 of the London Plan.

19. No solid matter during construction and no material storage thereafter shall be stored within 10m of the banks of the retained habitat.

Reason: To prevent pollution of the natural habitat and to comply with policies CP15, CP16, DC58, DC59 and DC60 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.19 and 7.21 of the London Plan.

20. Prior to the occupation of the development hereby approved a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development, shall be submitted to and approved in writing by the Local Planning Authority. All planting, seeding and turfing comprised within the scheme shall be in accordance with the recommendations of the ecological assessment, approved as part of this development, and shall be carried out in the first available planting season following completion of the development. Any tree or plant, which within a period of 5 years, from the completion of the development, that dies, is



removed or becomes seriously damaged or diseased shall be replaced in the next planting season with another similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In accordance with Section 197 of the Town and Country Planning 1900 (as amended), to enhance the visual amenity of the development and to comply with policies CP15, CP16, CP17, DC58, DC59, DC60 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.19 and 7.21 of the London Plan.

21. The 2.1m by 2.1m pedestrian visibility splay either side of each access, set back to the boundary of the public footway, shall be retained clear of any obstruction or object higher than 1m.

Reason: In the interests of highway safety and to comply with policies CP10, CP17, DC32, DC36 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 2.8, 6.3, 6.11 and 6.12 of the London Plan.

22. No goods, spoils or materials shall be stored on the site in the open without the prior written consent of the Local Planning Authority.

Reason: In the interests of visual amenity and to comply with policies CP16, CP17, DC48, DC52, DC58, DC59, DC60 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.4, 7.6, 7.9 and 7.21 of the London Plan.

23. Prior to the commencement of the development hereby permitted, details that show how the principles and practices of the Secure by Design Award Scheme are to be incorporated within the development shall be submitted and approved in writing by the Local Planning Authority prior to the commencement of any construction works. Once approved, the development shall be carried out in accordance with the agreed details.

Reason: Insufficient information has been submitted with the application to ensure that the principles of Secure by Design are incorporated within the development. Submission of such details is in the interests of creating safer, sustainable communities and to comply with policies CP17 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 7.3, 7.4 and 7.6 of the London Plan.

24. A scheme for the lighting of all external areas of the site, including pedestrian routes within and at the entrances of the site shall be submitted to, and approved in writing by the Local Planning Authority, before the commencement of the development hereby permitted. The development shall be constructed in accordance with the approved details.

Reason: Insufficient information has been submitted with the application to assess the appropriateness of the external lighting proposed as part of the development. Submission of such details is in the interests of visual amenity and to comply with policies CP15, CP16, CP17, DC56, D58, DC59 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.4, 7.6 and 7.19 of the London Plan.

25. Prior to first occupation of the development hereby approved, provision shall be made for the storage of refuse awaiting collection according to the details which shall previously have been agreed in writing by the Local Planning Authority. The submitted scheme should show the access and manoeuvres of refuse collection vehicles. Unless otherwise agreed in writing these details shall include provision for suitable containment and segregation of recyclable waste. The measures shall be fully implemented in accordance with the approved details.

Reason: Insufficient information has been submitted with the application to ensure sufficient provision for the storage of refuse. Submission of such details is in the interests of visual amenity, public health and sustainable waste management and to comply with policies CP15, CP17, DC36, DC40, DC52, DC55 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 7.4, 7.14 and 7.15 of the London Plan.

26. Prior to first occupation of the development hereby approved, the developer shall provide a copy of the final Building Research Establishment (BRE) certificate confirming that the development design achieves a minimum BREEAM rating of Very Good. The BREEAM Post Construction Assessment shall be carried out on a sample of the development in accordance with an agreed methodology to ensure that the required minimum rating has been achieved.

Reason: In the interests of energy efficiency and sustainability and to comply with policies CP15, CP17, DC49, DC50 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.1, 5.2, 5.3 and 7.4 of the London Plan.

27. Development shall not commence on the implementation of Plot 8 hereby permitted until a detailed design and method statement for the design of foundations and of all new ground works of Plot 8 has been submitted to and approved in writing by the Local Planning Authority.

Reason: Insufficient information in this regard has been submitted with the application. Submission of such details is to prevent pollution of groundwater and to comply with policies CP15, CP16, DC58, DC59 and DC60 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.19 and 7.21 of the London Plan.

28. Before the development hereby permitted is brought into use, a scheme for any new plant or machinery associated with the development shall be submitted to and approved in writing by the Local Planning Authority to achieve the following standard. Noise levels, expressed as the equivalent continuous sound level LAeq (1hr), when calculated at the boundary with the nearest sensitive property, shall not exceed LA90 -5dB.

Reason: To protect the local amenity and to comply with policies CP17, DC55, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 7.4, 7.15 and 7.19 of the London Plan.

29. Before the commencement of the development hereby permitted, details of wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during construction works shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be permanently retained and used at relevant entrances to the site throughout the course of the construction works.

Reason: Insufficient information in respect of measures to prevent mud being deposited onto the public highway has been submitted with the application. Such details are requested, prior to commencement of the development, in the interests of highway safety and the amenity of the surrounding area and to comply with policies CP10, CP15, DC32, DC49 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 6.3, 6.11 and 7.4 of the London Plan.

30. Development shall not commence on the implementation of Plot 8 hereby permitted until a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers has been submitted to and approved in writing by the Local Planning Authority. The Construction Method Statement shall include details of:

- a) parking of vehicles of site personnel and visitors;
- b) storage of plant and materials;
- c) dust management controls;
- d) measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
- e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the Local Planning Authority;
- f) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at a points agreed with the Local Planning Authority;
- g) siting and design of temporary buildings;
- h) scheme for security fencing/hoarding, depicting a readily visible 24-hour contact number for queries or emergencies; and

- i) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

The development shall be implemented in accordance with the approved details.

Reason: In the interests of highway safety, to protect the amenity of the surrounding area and to comply with policies CP10, CP15, CP16, CP17, DC32, DC33, DC49, DC52, DC55, DC56, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 6.3, 6.11, 6.13, 7.1, 7.14, 7.15 and 7.19 of the London Plan.

31. Development of the land referred to as 'Plot 8' within 'Beam Reach 5' on approve plan number: 05-2118-P001 shall not commence until details of the volume for volume and level for level fluvial flood plain compensation scheme have been submitted to and approved in writing by the Local Planning Authority.

Reason: To prevent the increased risk of flooding to the site and to third parties and to comply with policies CP15, CP16, CP17, DC48, DC49, DC51, DC53, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 5.12, 5.14, 5.21 and 7.19 of the London Plan.

32. No soakaways shall be constructed in contaminated ground.

Reason: To prevent pollution of groundwater and to comply with policies CP15, CP16, CP17, DC48, DC49, DC51, DC53, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 5.12, 5.14, 5.21 and 7.19 of the London Plan.

33. The surface and foul drainage system for the development hereby approved shall be carried out in accordance with the approved details.

Reason: To prevent pollution of the local water environment and to comply with policies CP15, CP16, CP17, DC48, DC49, DC51, DC53, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 5.12, 5.14, 5.21 and 7.19 of the London Plan.

34. Prior to the commencement of any works pursuant to this permission the developer shall submit for written approval of the Local Planning Authority:

- a) A Phase I (Desktop Study) Report documenting the history of this site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.

- b) A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the site ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
- c) A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise two parts:

Part A - Remediation Scheme which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

Part B - Following completion of the remediation works a 'Validation Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

- d) If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals, then revised contamination proposals shall be submitted to the Local Planning Authority; and
- e) If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, 'Land Contamination and the Planning Process'.

Reason: Insufficient information has been supplied with the application to judge the risk arising from contamination. Submission of an assessment prior to commencement will ensure the safety of the occupants of the development hereby permitted and the public generally. It will also ensure that the development accords with policies CP15, CP17, DC48, DC53, DC54 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.12, 5.14, and 5.21 of the London Plan.

35. Before the development is commenced a detailed site investigation shall be carried out to establish if the site is contaminated, to assess the degree and nature of the contamination present, and to determine its potential for the pollution of the water environment. The method and extent of this site investigation shall be agreed with the Local Planning Authority prior to commencement of the work. Details of appropriate measures to prevent pollution of groundwater and surface water, including provisions for monitoring, shall then be submitted to and approved in writing by the Local Planning Authority before development commences. The development shall then proceed in strict accordance with the measures approved.

Reason: Insufficient information has been supplied with the application to judge the risk arising from contamination. Submission of an assessment prior to commencement will prevent undue pollution of the water environment. It will also ensure that the development accords with policies CP15, CP16, CP17, DC48, DC51, DC53, DC54, DC58 and DC61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.12, 5.14, and 5.21 of the London Plan.

36. No construction works or construction related deliveries into the site shall take place other than between the hours of 08:00 and 18:00 on Monday to Friday and 08:00 and 13:00 on Saturdays, unless otherwise agreed in writing with the Local Planning Authority. No construction works or deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect residential amenity and to comply with policies CP15, DC49, DC55 and CD61 of the LDF Core Strategy and Development Control Policies Development Plan Document and policies 5.3, 7.4 and 7.15 of the London Plan.

## INFORMATIVES

1. Under the Water Resources Act 1991 and the Land Drainage Byelaws 1981, the prior written consent of the Environment Agency is required for any works in, over, under or within 8.0m of a main river such as the Havering New Sewer. This is irrespective of any planning permission granted.
2. Before the development becomes operational the process may need to comply fully with the Pollution Control Guidance issued either under the Environmental Protection Act 1990, Part 1 or the Pollution Prevention and Control (England and Wales Regulations).
3. A fee is required when submitting details pursuant to the discharge of conditions. In order to comply with the Town and Country Planning (Fees for Applications, Deemed Applications, Requests and Site Visits) (England) Regulations 2012, which came into force from 22.11.2012, a fee of £97 per

request or £28 where the related permission was for extending or altering a dwellinghouse, is needed.

4. The planning obligations recommended in this report have been subject to the statutory tests set out in Regulation 122 of the Community Infrastructure Levy Regulations 2010 and the obligations are considered to have satisfied the following criteria:
  - a) Necessary to make the development acceptable in planning terms;
  - b) Directly related to the development; and
  - c) Fairly and reasonably related in scale and kind to the development.
5. Statement Required by Article 35 (2) of the Town and Country Planning (Development Management Procedure) (England) Order 2015: No significant problems were identified during the consideration of the application, and therefore it has been determined in accordance with paragraphs 186-187 of the National Planning Policy Framework 2012.

## REPORT DETAIL

### **1.0 Site Description**

- 1.1 The application site comprises Plots 7 and 8 of the Beam Reach Business Park, extending to some 1.6ha. The site is located immediately to the east of the Marsh Way flyover, north of the A13 and south of the London to Southend railway line.
- 1.2 Access to the site is provided via gated vehicular and pedestrian points off Consul Avenue, with hardstanding to the front and side of the building.
- 1.3 The area forms part of the London Riverside Business Improvement District and a strategic industrial designation within the Council's adopted Proposals Map (part of the LDF). The site is not located within a conservation area and is not listed (or curtilage listed). There are no national ecological designations of note within the immediate vicinity, although the wetlands to the north of the site are designed as a Borough level site of nature conservation. The site is located partially within flood zone 3, partially within flood zone 2.

### **2.0 Background**

- 2.1 In 2007 planning permission, subject to conditions and a Section 106 Agreement, was granted by the London Thames Gateway Development Corporation, who constituted the Local Planning Authority at the time, for the construction of two tall industrial units, the installation of printing presses and associated equipment and buildings including offices, toilets and plant rooms – Uses B1, B2 and ancillary B8 at Plots 7 and 8 Beam Reach Business Park (application ref: U0006.06).

2.2 Since planning permission was granted, Plot 7 has been developed but Plot 8 has not. Plot 7 contains a building which measures approximately 3,500m<sup>2</sup>, with a mezzanine floor and two floors of ancillary office space to the western end of the building. The building is currently vacant but was last used for newspaper printing purposes.

### **3.0 Description of Proposal**

3.1 As alluded to above, planning application reference: U0006 was granted subject to various conditions and a Section 106 Agreement. Both the agreement and S106 are split by Plot, with conditions and obligations/covenants separately covering the development of each Plot.

3.2 One of the conditions imposed pursuant to Plot 7 was that prior to the occupation of the development, the developer shall provide a copy of the final Building Research Establishment (BRE) certificate confirming that the development design achieves a minimum BREEAM rating of Very Good. The BREEAM Post Construction Assessment shall be carried out on a sample of the development in accordance with an agreed methodology to ensure that the required minimum rating has been achieved (condition 10). The Deed (S106) furthermore includes a section (Section 3 – Use of Renewable Energy and Reduction in Carbon Emissions) which requires the development to be undertaken in accordance with the submitted Renewables Strategy and the submission of Annual Renewable Reports in respect of carbon emissions.

3.3 This application seeks the removal of condition 10 and the associated section of the S106 (Section 3 – Use of Renewable Energy and Reduction in Carbon Emissions) relating to Plot 7.

3.4 The building and Plot (Plot 7) is currently up for sale and as part of the due diligence the prospective buyer noted the condition and previous letters from the London Thames Gateway Development Corporation in respect that it was considered that the previous occupation of the building was unlawful as condition 10 had not been complied with.

3.5 In view that the building has been completed, the applicant has suggested that retrospectively fitting the building to achieve BREEAM Very Good would be near on impossible. The construction type also renders the installation of various energy technologies such as Photovoltaic Panels not viable. To regularise the situation, the application therefore seeks the removal of this condition together with the accompanying section of the S106 which is considered onerous, in context of the build type.

### **4.0 Relevant History**

4.1 This site has an extensive planning history. Below is a selection of the most recent, relevant applications relating to the site and the surroundings:

4.2 P1155.00 – Outline application for the development of approximately 101,000m<sup>2</sup> of industrial and office use (B1, B2 and including warehousing



ancillary to industrial processes) at land adjacent to Marsh Way, Rainham - approved 10/02/2003

- 4.3 U0006.06 – 2 No. tall industrial units for the installation of printing presses and associated equipment & buildings include offices, toilets, plant rooms - Uses B1/B2 at Unit 7 and 8 Beam Reach Business Park, Consul Avenue – approved by the London Thames Gateway Development Corporation 14/06/2007.
- 4.4 U0009.08 – Extension to western side of existing building to accommodate new press automated stacking and loading equipment. Retrospective canopy to existing entrance and amended access off Consul Avenue at Unit 7 Beam Reach Business Park, Consul Avenue – approved by the London Thames Gateway Development Corporation 18/12/2009.

## **5.0 Consultations/Representations**

- 5.1 14 properties were directly notified of this application. The application was also advertised by way of site notice and press advert. No letters of public representation have been received.
- 5.2 London Borough of Barking & Dagenham – No comments received.
- 5.3 London Borough of Havering Building Control – No comments received.
- 5.4 London Borough of Havering Energy and Sustainability – Somewhat surprised that a new build completed in 2012 only managed an EPC rating of E however, accepts that in context of this, complying with the condition would be difficult. In consideration of the circumstances it is suggested that a financial contribution towards the Council's Carbon Reduction Fund to offset the harm of the development be sought. On the basis of the annual CO2 emissions from the building and achieving a 10% reduction in this over a 25 year month a monetary figure of £66,000 is suggested.
- 5.5 London Riverside (BID) Ltd – No comments received.
- 5.6 Greater London Authority – Not referable.
- 5.7 Rainham Conservation & Improvement Society – No comments received.

## **6.0 Relevant Policies**

- 6.1 LDF Core Strategy and Development Control Policies Development Plan Document: CP3 (Employment), CP9 (Reducing The Need To Travel), CP10 (Sustainable Transport), CP15 (Environmental Management), CP16 (Biodiversity and Geodiversity), CP17 (Design), DC9 (Strategic Industrial Locations), DC13 (Access To Employment Opportunities), DC32 (The Road Network), DC33 (Car Parking), DC34 (Walking), DC35 (Cycling), DC36 (Servicing), DC40 (Waste Recycling), DC48 (Flood Risk), DC49 (Sustainable Design and Construction), DC50 (Renewable Energy), DC51 (Water Supply, Drainage and Quality), DC52 (Air Quality), DC53 (Contaminated Land), DC54

(Hazardous Substances), DC55 (Noise), DC56 (Light), DC58 (Biodiversity and Geodiversity), DC59 (Biodiversity In New Developments), DC60 (Trees and Woodland), DC61 (Urban Design), DC62 (Access), DC63 (Delivering Safer Places) and DC72 (Planning Obligations)

6.2 Sustainable Design and Construction Supplementary Planning Document

6.3 London Plan: 1.1 (Delivering The Strategic Vision And Objectives For London), 2.1 (London In Its Global, European and United Kingdom Context), 2.2 (London And The Wider Metropolitan Area), 2.3 (Growth Areas And Co-Ordination Corridors), 2.7 (Outer London: Economy), 2.8 (Outer London: Transport), 2.13 (Opportunity Areas And Intensification Areas), 2.14 (Areas For Regeneration), 2.17 (Strategic Industrial Locations), 4.1 (Developing London's Economy), 4.4 (Managing Industrial Land And Premises), 4.10 (New And Emerging Economic Sectors), 5.1 (Climate Change Mitigation), 5.2 (Minimising Carbon Dioxide Emissions), 5.3 (Sustainable Design And Construction), 5.12 (Flood Risk Management), 5.14 (Water Quality And Wastewater Infrastructure), 5.21 (Contaminated Land), 6.1 (Strategic Approach), 6.3 (Assessing Effects Of Development On Transport Capacity), 6.10 (Walking), 6.11 (Smoothing Traffic Flow And Tackling Congestion), 6.12 (Road Network Capacity), 6.13 (Parking), 7.2 (An Inclusive Environment), 7.3 (Designing Out Crime), 7.4 (Local Character), 7.6 (Architecture), 7.7 (Location and Design Of Tall And Large Buildings), 7.14 (Improving Air Quality), 7.15 (Reducing And Managing Noise, Improving And Enhancing The Acoustic Environment And Promoting Appropriate Soundscapes), 7.19 (Biodiversity And Access To Nature), 7.21 (Trees And Woodlands), 8.2 (Planning Obligations) and 8.3 (Community Infrastructure Levy).

6.4 Draft London Riverside Opportunity Area Planning Framework (2015)

6.5 Government Guidance: National Planning Policy Framework and National Planning Practice Guidance

**7.0 Staff Comments**

7.1 The principle of this development has already been deemed acceptable through the grant of planning permission: U0006.06. An application made under Section 73 of the Town and Country Planning Act 1990 (as amended) allows for applications to be made for planning permission for the development of land without complying with conditions subject to which a previous planning permission was granted. On such an application, the local planning authority is however only authorised to consider the question of the conditions subject to which planning permission was originally granted, and:

- a) If it is considered that planning permission should be granted subject to conditions differing from those subject of which the previous permission was granted, or that it should be granted unconditionally, planning permission should be granted; and

- b) If it is considered that planning permission should be granted subject to the same conditions as those subject to which the previous permission was granted, planning permission shall be refused.

7.2 With regard to the removal of condition 10 (the energy efficiency and sustainability standards required for the development), it is noted that the London Plan at policy 5.2 states that development proposals should make the fullest contribution to minimising carbon dioxide emissions in accordance with the following energy hierarchy:

1. Be lean: use less energy;
2. Be clean: supply energy efficiently; and
3. Be green: use renewable energy.

For non-domestic buildings, between years 2010-2013 (given the building was constructed in 2012) a 25% improvement on 2010 Building Regulations is required. Expanding on this, policy 5.3 of the London Plan states that highest standards of sustainable design and construction should be achieved in London to improve the environmental performance of new developments and to adapt to the effects of climate changes over their lifetime.

7.3 The Council's LDF Core Strategy and Development Control Policies Development Plan Document at policy CP15 details that to reduce their environmental impact and to address the causes and adapt to and mitigate the effects of climate change in their location, construction and use new development should:

- minimise their use of natural resources, including the efficient use of land;
- reduce and manage fluvial, tidal and surface water and all other forms of flood risk through spatial planning, implementation of emergency and other strategic plans and development control policies;
- have a sustainable water supply and drainage infrastructure;
- avoid an adverse impact on water quality;
- ensure that it does not singularly or cumulatively breach air quality targets;
- take the necessary measures to address contaminated land issues;
- avoid a noise sensitive use being exposed to excessive noise; and
- minimise the negative impact of lighting.

Major new development will be required to adopt high standards of sustainable construction and design and to incorporate on-site renewable energy equipment to reduce predicted CO<sub>2</sub> emissions in line with regional and national policy.

7.4 In respect of the above policy DC49 states that planning permission for major new developments will only be granted where they are built to a high standard of sustainable construction. Applicants for major developments will be required to produce documentation from the Building Research Establishment to confirm

that the development will achieve a rating under the BREEAM rating scheme (or equivalent methodology), for non-residential developments of at least 'Very Good'.

- 7.5 The building currently standing at Plot 7 has not been constructed in accordance with the approved details. In this regard the development fails to meet the required energy standards of the permission and that covered by relevant planning policy. In context of the site history, the fact that enforcement action was not taken in the past by the London Thames Gateway Development Corporation, when the development was first occupied, and the strategic importance of the area to which this application relates, it is however considered that enforcement action is not expedient.
- 7.6 Whilst the reduced energy efficiency of the building is something the Council would not wish to encourage, given that the development has been completed and could not be viably altered to achieve the required standard, it is considered that pursuing measures to offset the potential harm may represent a more logical and sustainable position for the Council to take. In this instance, on the basis of advice received from the Council's Energy and Sustainability Officer, a financial contribution towards the Council's Carbon Reduction Fund is recommended.
- 7.7 In considering and proposing this the Council has to be mindful of the fact that future developments could do something similar and therefore have sought to ensure that the contribution requested is not only fair but also acts as a deterrent to other developers.
- 7.8 The suggested contribution (£66,000) has been calculated based on the building emission rate (kgCO<sub>2</sub>/m<sup>2</sup>), achieving a 10% reduction, over a 25 year period, and the Zero Carbon Hub price of £60 per tonne. The Zero Carbon Hub was established in 2008, as a non-profit organisation, to take day-to-day operational responsibility for achieving the government's targets of delivering zero carbon homes in England from 2016 and £60 is a suggested proxy based on the Government's consultation document on Allowable Solutions, published in 2013, which the Council's uses in such cases.
- 7.9 With this contribution being added to the S106, as a replacement for the existing Section 3 Use of Renewable Energy and Reduction in Carbon Emissions, and being secured prior to any further occupation of Plot 7, the Council's Energy and Sustainability Officer is content for the condition to be removed and the S106 duly being amended.

## **8.0 Conclusion**

- 8.1 The original conditions relating to this development, and in-particular Plot 7, have not been complied with but the nature of the conditions and the fact that the development is largely complete means that these are unlikely to be able to be complied with, without demolishing the existing building and starting again.

- 8.2 With regard to this, it is considered that the planning history of the site is important and the fact that previous enforcement action has not been pursued questions the expediency of any action which could be taken now. This is an existing breach of planning control and the application submitted would seek to resolve this. In consideration of this, the benefits an active site use would bring to the area, from an economic perspective, and that the Council's Energy and Sustainability Officer is content that the carbon impact of the building can be offset by financial contribution, in this instance, it is recommended that planning permission be granted.
- 8.3 To confirm, all other details of the development would remain as existing, with the requirements (both by condition and legal agreement) with regard to energy efficiency and sustainability standards for the development at Plot 8 remaining in force.

## IMPLICATIONS AND RISKS

**Financial implications and risks:** None

**Legal implications and risks:** Legal resources would be required for the variation of the legal agreement. The amendment proposed to the existing Section 106 is nevertheless required to rectify the existing site situation and mitigate/offset the harm of the development. Officers are satisfied that the contribution required is compliant with the statutory tests set out in the Community Infrastructure Levy Regulations and NPPF in respect to planning obligations.

**Human Resources implications and risks:** None

**Equalities implications and risks:** The Council's planning policies are implemented with regard to equality and diversity.

## BACKGROUND PAPERS

1. Application form, plans and associated documents received 09/09/2015.

## APPENDIX 1 – Application Reference: U0006.06 Decision Notice



**Case no. LTGDC-06-096-PP**

Robinson Kenning & Gallagher  
Unit K Lombard Business Park  
20-26 Purley Way  
Croydon  
Surrey  
CR0 3JP  
United Kingdom

### NOTICE OF DECISION ON PLANNING APPLICATION

TOWN AND COUNTRY PLANNING ACT 1990  
LONDON THAMES GATEWAY DEVELOPMENT CORPORATION (PLANNING  
FUNCTIONS ORDER) 2005

**APPLICATION NO:** U0006.06/LBH~~0~~

**LOCATION:** Beam Reach Business Park 5 Plots 8 & Part 7 Marsh Way  
Rainham

**PROPOSAL:** Erection of two tall industrial units for the installation of  
printing presses and associated equipment & buildings  
include offices, toilets, plant rooms - Uses B1, B2 and  
ancillary B8

**APPLICANT:** Newsfax International Ltd

London Thames Gateway Development Corporation being the Local Planning Authority for the purposes of the application received on 15/08/2006 for Planning Permission, as described above has resolved to **GRANT PLANNING PERMISSION SUBJECT TO CONDITIONS AND A DEED MADE PURSUANT TO SECTION 106 OF THE TOWN AND COUNTRY PLANNING ACT 1990.**

#### ***THE CONDITIONS TO WHICH THE PERMISSION IS SUBJECT ARE AS FOLLOWS FOR PLOT 7:***

1. The development to which this permission relates must be commenced not later than 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 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

2. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved drawings, documents and specifications:

Drawing numbers 05-2118-P001; P002; P003; P010 rev b; P011 rev a; P012; P013; P014; P015; P016; P017 rev c; P018 rev c; P020; P021; P022; P040 rev f; P041 rev e; P042 rev d; and P043 rev c

Documents:

- Provisional BREEAM Assessment - White Young Green December 2006;
- Environmental Statement - Loach Construction dated September 2006;
- Method Statement for the Installation of Driven Cast In-Situ Piles Loach Construction dated 26<sup>th</sup> September 2006;
- Extended Phase 1 Habitat Survey - White Young Green dated October 2006;
- Flood Risk Assessment - White Young Green dated 23<sup>rd</sup> November 2006;
- Ground Contamination Desk Top Study Report - White Young Green dated October 2006;
- Low and Zero Carbon Study - White Young Green dated December 2006;
- Interim Sustainability Statement - White Young Green dated November 2006;
- Transportation Assessment - White Young Green dated 21<sup>st</sup> December 2006; and
- Planning Overview Statement - Robinson Keller and Gallagher 2006.

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Unitary Development Plan policy ENV1.

3. Prior to occupation of the development hereby permitted, details of the proposed car parking layout and motorcycle parking facilities shall be submitted to and approved by the Local Planning Authority. The approved car parking facilities are to be constructed, surfaced and marked out prior to occupation of the development and shall be permanently maintained thereafter.

Reason: To ensure that car parking accommodation is made permanently available to the standards adopted by the Local Planning Authority in the interests of highway safety.

4. Prior to occupation of the development hereby permitted, details of proposed secure, covered, cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. Cycle storage facilities shall be provided in accordance with the approved details, prior to the first occupation of the building. Such facilities shall be permanently retained and made available for use thereafter.

Reason: In the interests of providing a wide range of facilities for non-motor car residents and in the interests of sustainability.

5. No solid matter during construction and no material storage thereafter shall be stored within 10m of the banks of the retained habitat.

Reason: To prevent pollution of the natural wetland habitat.

6. Prior to the occupation of the development hereby approved, a scheme of

hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development, shall be submitted to, and approved by the Local Planning Authority, in order that the development accords with the Unitary Development Plan policy ENV1. All planting, seeding or turfing comprised within the scheme shall be in accordance with the recommendations of the ecological assessment approved as part of this development and shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development.

7. The 2.1 by 2.1 metre pedestrian visibility splay on either side of each access, set back to the boundary of the public footway, shall be retained clear of any obstruction or object higher than 1.0 metre.

Reason: In the interests of Highway Safety.

8. No goods, spoils or materials shall be stored on the site in the open without the prior consent in writing of the Local Planning Authority.

Reason: In the interests of visual amenity, and that the development accords with Unitary Development Plan policy ENV1.

9. The development hereby permitted shall include a scheme for the lighting of all external areas of the site, including pedestrian routes within and at the entrances of the site. This scheme shall be submitted to and approved in writing by the Local Planning Authority before the development is commenced and shall be installed in full, as agreed for that phase by the time the phase is completed.

Reason: In the interests of visual amenity, and in order that the development accords with Unitary Development Plan ENV1.

10. Prior to the occupation of the development hereby approved, the developer shall provide a copy of the final Building Research Establishment (BRE) certificate confirming that the development design achieves a minimum BREEAM rating of Very Good. The BREEAM Post Construction Assessment shall be carried out on a sample of the development in accordance with an agreed methodology to ensure that the required minimum rating has been achieved.

Reason: In the interests of energy efficiency and sustainability in accordance with the Councils Interim Planning Guidance on Sustainability and Policy 4A.7 of the London Plan

11. Before the development hereby permitted is brought into use, a scheme for any new plant or machinery associated with the development shall be submitted to the Local Planning Authority for their written approval, to achieve



the following standard. Noise levels (expressed as the equivalent continuous sound level, (LAeq (1hr)) when calculated at the boundary with the nearest noise sensitive premises shall not exceed  $L_{A90} -5dB$ .

Reason: To protect the local amenity.

12. The approved wheel washing facilities shall be permanently retained and used at relevant entrances to the site throughout the course of the construction works.

Reason: In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area and in order that the development accords with Unitary Development Plan policy ENV1.

13. No soakaways shall be constructed in contaminated ground.

Reason: To prevent pollution of groundwater.

14. The surface and foul drainage system for the development hereby approved shall be carried out in accordance with the approved details.

Reason: To prevent pollution of the local water environment.

15. Within 18 (eighteen) months of the date of this decision notice, a minimum of a six month groundwater monitoring programme shall be submitted to and agreed in writing by the Local Planning Authority. If the groundwater monitoring programme identifies contamination, then this shall be fully assessed and an appropriate remediation scheme shall be submitted to the Local Planning Authority for written approval.

Reason: To prevent the pollution of the local water environment. The result of the groundwater monitoring will determine whether remediation is required.

16. Prior to occupation of the development hereby permitted, details relating to the means of refuse storage shall be submitted to and approved by the Local Planning Authority. Details should include noise output, odour control systems and termination points. The approved scheme is to be implemented prior to occupation of the development and shall be permanently maintained thereafter.

Reason: To ensure adequate and hygienic refuse disposal with regard to policy ENV1 of the adopted Havering Unitary Development Plan.

17. Prior to occupation of the development hereby permitted, full details of any proposed fencing and gates to be erected on the site shall be submitted to, and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained thereafter in accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area and in order that the development accords with the Unitary Development Plan policy ENV1.

**THE CONDITIONS TO WHICH THE PERMISSION IS SUBJECT ARE AS FOLLOWS FOR PLOT 8:**

18. The development to which this permission relates must be commenced not later than 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 (as amended by Section 51 of the Planning and Compulsory Purchase Act 2004).

19. The development hereby permitted shall not be carried out otherwise than in complete accordance with the following approved drawings, documents and specifications:

Drawing numbers 05-2118-P001; P002; P003; P010 rev b; P011 rev a; P012; P013; P014; P015; P016; P017 rev c; P018 rev c; P020; P021; P022; P040 rev f; P041 rev e; P042 rev d; and P043 rev c

Documents:

- Provisional BREEAM Assessment - White Young Green dated December 2006;
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- Interim Sustainability Statement - White Young Green dated November 2006;
- Transportation Assessment - White Young Green dated 21<sup>st</sup> December 2006; and
- Planning Overview Statement - Robinson Keller and Gallagher 2006.

Reason: The Local Planning Authority consider it essential that the whole of the development is carried out and that no departure whatsoever is made from the details approved, since the development would not necessarily be acceptable if partly carried out or carried out differently in any degree from the details submitted. Also, in order that the development accords with Unitary Development Plan policy ENV1.

20. Prior to commencement of the development hereby permitted, full details of any proposed fencing and gates to be erected on the site shall be submitted to, and approved in writing by the Local Planning Authority. The approved details shall be implemented and maintained thereafter in accordance with the approved details.

Reason: To safeguard the appearance of the premises and the character of the immediate area and in order that the development accords with the Unitary Development Plan policy ENV1.

21. Prior to commencement of the development hereby permitted, details of the proposed car parking layout and motorcycle parking facilities shall be

submitted to and approved by the Local Planning Authority. The approved car parking facilities are to be constructed, surfaced and marked out prior to occupation of the development and shall be permanently maintained thereafter.

Reason: To ensure that car parking accommodation is made permanently available to the standards adopted by the Local Planning Authority in the interests of highway safety.

22. Prior to commencement of the development hereby permitted, details of proposed cycle storage facilities shall be submitted to and approved in writing by the Local Planning Authority. Cycle storage facilities shall be provided in accordance with the approved details, prior to the first occupation of the building. Such facilities shall be permanently retained and made available for use thereafter.

Reason: In the interests of providing a wide range of facilities for non-motor car residents and in the interests of sustainability.

23. Prior to the commencement of the development hereby permitted, samples of all external materials to be used on the building shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be constructed with approved materials.

Reason: To ensure that the appearance of the proposed development will harmonise with the character of the surrounding area and, in order that the development accords with Unitary Development Plan policy ENV1.

24. No solid matter during construction and no material storage thereafter shall be stored within 10m of the banks of the retained habitat.

To prevent pollution of the natural wetland habitat.

25. Prior to the occupation of the development hereby approved a scheme of hard and soft landscaping, which shall include indications of all existing trees and shrubs on the site, and details of any to be retained, together with measures for the protection in the course of development, shall be submitted to and approved by the Local Planning Authority, in order that the development accords with the Unitary Development Plan policy ENV1. All planting, seeding or turfing comprised within the scheme shall be in accordance with the recommendations of the ecological assessment approved as part of this development and shall be carried out in the first planting season following completion of the development and any trees or plants which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with other similar size and species, unless otherwise agreed in writing by the Local Planning Authority.

Reason: In accordance with Section 197 of the Town and Country Planning Act 1990 and to enhance the visual amenities of the development.

26. The 2.1 by 2.1 metre pedestrian visibility splay on either side of each access, set back of the boundary of the public footway, shall be retained clear of any obstruction or object higher than 1.0 metre.

Reason: In the interests of Highway Safety.

27. No goods, spoils or materials shall be stored on the site in the open without the prior consent in writing of the Local Planning Authority.

Reason: In the interests of visual amenity, and that the development accords with Unitary Development Plan policy ENV1.

28. Prior to the commencement of the development hereby permitted, details that show how the principles and practices of the Secured by Design Award Scheme are to be incorporated within the development shall be submitted to and approved in writing by the Local Planning Authority prior to the commencement of any construction works. Once approved, the development shall be carried out in accordance with the agreed details.

Reason: In the interest of creating safer, sustainable communities and residential amenity.

29. A scheme for the lighting of all external areas of the site, including pedestrian routes within and at the entrances of the site shall be submitted to, and approved in writing by the Local Planning Authority before the commencement of development shall be installed in full prior to the occupation of that development.

Reason: In the interests of visual amenity, and in order that the development accords with Unitary Development Plan policy ENV1.

30. Prior to the first occupation of the development hereby permitted, provision shall be made for the storage of refuse awaiting collection according to details which shall previously have been agreed in writing by the Local Planning Authority. The submitted scheme should show the access and manoeuvres of refuse collection vehicles. Unless otherwise agreed in writing these details shall include provision for suitable containment and segregation of recyclable waste. The measures shall be fully implemented in accordance with the agreed details.

Reason: In the interests of visual amenity and public health, and to ensure the development accords with Unitary Development Plan policy ENV1 and Interim Planning Guidance and in the interests of sustainable waste management.

31. Prior to the occupation of the development here by approved the developer shall provide a copy of the final Building Research Establishment (BRE) certificate confirming that the development design achieves a minimum BREEAM rating of Very Good. The BREEAM Post Construction Assessment shall be carried out on a sample of the development in accordance with an agreed methodology to ensure that the required minimum rating has been achieved.

Reason: In the interests of energy efficiency and sustainability in accordance with the Council's Interim Planning Guidance on Sustainability and Policies 4A.7 of the London Plan.

32. Development shall not commence on the implementation of Plot 8 hereby permitted until a detailed design and method statement for the design of foundations and of all new ground works of Plot 8 has been submitted to and

approved in writing by the Local Planning Authority.

Reason: To prevent pollution of groundwater and that the development accords with Unitary Development Plan policy ENV1 and ENV14.

33. Before the development hereby permitted is brought into use a scheme for any new plant or machinery associated with the development shall be submitted to the Local Planning Authority for their written approval, to achieve the following standard. Noise levels (expressed as the equivalent continuous sound level, (LAeq (1hr)) when calculated at the boundary with the nearest noise sensitive premises shall not exceed  $L_{A90} - 5\text{dB}$ .

Reason: To protect the local amenity.

34. Before the commencement of the development hereby permitted, details of wheel scrubbing/wash down facilities to prevent mud being deposited onto the public highway during construction works shall be submitted to and approved in writing by the Local Planning Authority. The approved facilities shall be permanently retained and used at relevant entrances to the site throughout the course of the construction works.

Reason: In order to prevent materials from the site being deposited on the adjoining public highway, in the interests of highway safety and the amenity of the surrounding area and in order that the development accords with Unitary Development Plan policy ENV1.

35. Before development of each phase is commenced, a scheme of each phase of development shall be submitted to and approved in writing by the local planning authority making provision for a Construction Method Statement to control the adverse impact of the development on the amenity of the public and nearby occupiers. The Construction Method statement shall include details of:
- a) parking of vehicles of site personnel and visitors;
  - b) storage of plant and materials;
  - c) dust management controls;
  - d) measures for minimising the impact of noise and, if appropriate, vibration arising from construction activities;
  - e) predicted noise and, if appropriate, vibration levels for construction using methodologies and at points agreed with the local planning authority;
  - f) scheme for monitoring noise and if appropriate, vibration levels using methodologies and at points agreed with the local planning authority; siting and design of temporary buildings;
  - g) scheme for security fencing/hoardings, depicting a readily visible 24-hour contact number for queries or emergencies;
  - h) details of disposal of waste arising from the construction programme, including final disposal points. The burning of waste on the site at any time is specifically precluded.

And the development shall be carried out in accordance with the approved scheme and statement, in order that the development accords with Unitary Development Plan policy ENV1.

Reason: To protect the amenity of the surrounding area.

36. Development of the land referred to as 'Plot 8' within 'Beam Reach 5' on approved plan number 05-2118-P001 shall not commence until details of the volume for volume and level for level fluvial flood plain compensation scheme have been submitted to and approved by the Local Planning Authority.

Reason: To prevent the increased risk of flooding to the site and to third parties.

37. No soakaways shall be constructed in contaminated ground.

Reason: To prevent pollution of groundwater.

38. The surface and foul drainage system for the development hereby approved shall be carried out in accordance with the approved details.

Reason: To prevent pollution of the local water environment.

39. Prior to the commencement of any works pursuant to this permission the developer shall submit for the written approval of the Local Planning Authority;

- a. A Phase I (Desktop Study) Report documenting the history of this site, its surrounding area and the likelihood of contaminant/s, their type and extent incorporating a Site Conceptual Model.
- b. A Phase II (Site Investigation) Report if the Phase I Report confirms the possibility of a significant risk to any sensitive receptors. This is an intrusive site investigation including factors such as chemical testing, quantitative risk assessment and a description of the sites ground conditions. An updated Site Conceptual Model should be included showing all the potential pollutant linkages and an assessment of risk to identified receptors.
- c. A Phase III (Risk Management Strategy) Report if the Phase II Report confirms the presence of a significant pollutant linkage requiring remediation. The report will comprise of two parts:

*Part A* – Remediation Statement which will be fully implemented before it is first occupied. Any variation to the scheme shall be agreed in writing to the Local Planning Authority in advance of works being undertaken. The Remediation Scheme is to include consideration and proposals to deal with situations where, during works on site, contamination is encountered which has not previously been identified. Any further contamination shall be fully assessed and an appropriate remediation scheme submitted to the Local Planning Authority for written approval.

*Part B* – Following completion of the remediation works a 'Validation Report' must be submitted demonstrating that the works have been carried out satisfactorily and remediation targets have been achieved.

- d. If during development works any contamination should be encountered which was not previously identified and is derived from a different source and/or of a different type to those included in the contamination proposals then revised contamination proposals shall be submitted to the Local Planning Authority; and

- e. If during development work, site contaminants are found in areas previously expected to be clean, then their remediation shall be carried out in line with the agreed contamination proposals.

For further guidance see the leaflet titled, 'Land Contamination and the Planning Process'.

Reason: To protect those engaged in construction and occupation of the development from potential contamination.

40. Before the development is commenced a detailed site investigation shall be carried out to establish if the site is contaminated, to assess the degree and nature of the contamination present, and to determine its potential for the pollution of the water environment. The method and extent of this site investigation shall be agreed with the Planning Authority prior to commencement of the work. Details of appropriate measures to prevent pollution of groundwater and surface water, including provisions for monitoring, shall then be submitted to and approved in writing by the Planning Authority before development commences. The development shall then proceed in strict accordance with the measures approved.

Reason: To prevent pollution of the water environment.

41. No construction works or construction related deliveries into the site for any phase shall take place other than between the hours of 0800 to 1800 on Monday to Friday and 0800 to 1300 on Saturdays unless agreed in writing with the Local Planning Authority. No construction works or deliveries shall take place on Sundays, Bank or Public Holidays unless otherwise agreed in writing by the Local Planning Authority.

Reason: To protect residential amenity and in order that the development accords with Unitary Development Plan Policy ENV1.

## INFORMATIVES

1. Under the Water Resources Act 1991 and the Land Drainage Byelaws 1981, the prior written consent of the Environment Agency is required for any works in, over, under or within 8.0m of a main river such as the Havering New Sewer. This is irrespective of any planning permission granted.
2. Before the development becomes operational the process may need to comply fully with the Pollution Control Guidance issued either under the Environmental Protection Act 1990 Part 1 or the Pollution Prevention and Control (England and Wales Regulations).

## JUSTIFICATION FOR GRANTING CONSENT/REASONS FOR APPROVAL

- The proposed development accords with LB Havering's UDP policy EMP1 and the emerging LDF in so far as the development, within this location would represent a development promoting beam Reach 5 as an advanced manufacturing led business park, and other relevant planning policies;
- Redevelopment of this land for the proposed use would provide for further

- economic and employment growth for the area;
- The site is well located within the road network for this type of use, and also presents opportunities for improvements to public transport within the area;
- The applicant has demonstrated that any potential impacts arising from the development are not significant, and that the development will have a positive effect on the area;
- The proposed development should provide a catalyst for further development of this site for advanced manufacturing uses; and
- The proposal does not present any significant negative impact upon the environment.

The London Thames Gateway Development Corporations decision to approve the details in this instance arose following careful consideration of the relevant provisions of the London Borough of Havering's adopted Unitary Development Plan and emerging Local Development Framework, The London Plan, and of all other relevant material considerations.

Of particular relevance to this decision were the following policies:

London Borough of Havering Unitary Development Plan (March 1993):

EMP1 Rainham Employment Area  
 ENV1 Environmental Criteria for New Developments  
 ENV7 Nature Conservation  
 ENV8 Contaminated Land  
 TRN 2 Effect of development on public transport and roads  
 TRN15 Cycle Facilities

London Borough of Havering's Local Development Framework (November 2006):

The Local Development Framework (LDF) has been approved for consultation and is a material consideration. The LDF identifies Beam Reach Business Park as a main employment area, and as an important location for advanced manufacturing uses.

LDF Core Policies:

CP3 Employment  
 CP9 Reducing the need to travel  
 CP10 Sustainable Transport  
 CP15 Environmental Management

LDF Development Control Policies:

DC9 Main employment areas  
 DC13 Access to employment opportunities  
 DC33 Car parking  
 DC35 Cycling  
 DC49 Flood Risk  
 DC50 Sustainable Design and Construction  
 DC51 Renewable Energy  
 DC52 Water supply, drainage and quality  
 DC53 Air quality  
 DC54 Contaminated Land  
 DC55 Noise  
 DC56 Light  
 DC59 Biodiversity in new developments  
 DC60 Trees  
 DC61 Urban Design  
 DC62 Access



DC63 Crime  
DC72 Planning Obligations

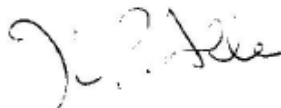
Supplementary Planning Document:  
Sustainable Construction (Havering)

London Plan (February 2004):  
2A.1 Sustainability criteria  
2A.2 Opportunity Areas  
2A.3 Areas for intensification  
2A.7 Strategic Employment Locations  
3B.5 Strategic Employment Locations  
4A.6 Improving Air Quality  
4A.7 Energy Efficiency and Renewable Energy  
4B.1 Design Principles for a Compact City  
5C.1 Strategic Priorities for East London

The London Plan Sub-Regional Development Framework for East London (May 2006)

Planning Policy Guidance:  
PPS1 – Delivering Sustainable Development  
PPS4 – Industrial development  
PPG13 – Transport  
PPS23 – Planning and Pollution Control  
PPS25 – Development and Flood Risk  
RPG9a – The Thames Gateway Planning Framework

Signed



Director of Planning

Date of Decision: 14<sup>th</sup> June 2007

Date Issued:

## APPENDIX 2 – Section 3 of Existing Deed (Section 106 Agreement)

- 2.5 The Plot 7 Development pursuant to the Planning Permission shall not be Occupied other than in accordance with the approved Green Travel Plan or any approved revisions thereof.

### 3. USE OF RENEWABLE ENERGY AND REDUCTION IN CARBON EMISSIONS

- 3.1 The Plot 7 Development pursuant to the Planning Permission shall not be Occupied unless and until:
- 3.1.1 The Renewables Strategy in respect of the Plot 7 Development has been submitted to the Local Planning Authority for its approval; and
- 3.1.2 The Local Planning Authority has given its approval in writing to the Renewables Strategy in respect of the Plot 7 Development thereto.
- 3.2 The Plot 7 Development pursuant to the Planning Permission shall not be Occupied unless and until the short-term measures for the use of the renewable energy and for the reduction in the level of carbon emissions as set out in the approved Renewables Strategy have been implemented in respect of the Plot 7 Development to the reasonable satisfaction of the Local Planning Authority.
- 3.3 Carbon emissions from the Plot 7 Development shall at no time exceed the level being 10 per cent below the Baseline Carbon Level in respect of the Plot 7 Development as set out in the Renewables Strategy in respect of the Plot 7 Development for the relevant annual period PROVIDED THAT for the avoidance of doubt, the reduction of the level of carbon emissions to 10 percent below the Baseline Carbon Level may be achieved in the short-term by the use of bio-diesel to operate oil fired generators that may be used to generate the necessary electricity for the operation of the Plot 7 Development.
- 3.4 Unless the Local Planning Authority shall otherwise agree in writing:
- 3.4.1 Between 1 March and 28 April of each year following the first Occupation of the Plot 7 Development, the Annual Renewables Report shall be submitted to the Local Planning Authority for its approval in respect of the Plot 7 Development;

- 3.4.2 The new measures and initiatives contained within the approved Annual Renewables Report thereto shall be implemented upon receiving approval thereto from the Local Planning Authority;
- 3.4.3 The obligation contained in paragraph 3.5 of this Schedule 1 shall apply in relation to the new measures and initiatives contained in the approved Annual Renewables Report in respect of the Plot 7 Development.
- 3.5 The Plot 7 Development pursuant to the Planning Permission shall not be Occupied except:
- 3.5.1 in accordance with the approved Renewables Strategy in respect of the Plot 7 Development and any approved revisions thereof; and
- 3.5.2 in accordance with paragraph 3.3 of this Schedule.
- 3.6 Where, within any annual period following the approval of the Renewables Strategy or an Annual Renewables Report (as the case may be) in respect of the Plot 7 Development, there has been a material change in the type and/or quantity of the equipment employed in respect of the operational processes taking place within the Plot 7 Development, or in the output arising from the operation of the operational processes taking place within the Plot 7 Development, the Local Planning Authority shall not seek to prevent Occupation of the Plot 7 Development pursuant to the Planning Permission in respect of a breach of the obligation at paragraph 3.5 within that same annual period subject to the following:
- 3.6.1 the said material change in the type and/or quantity of equipment employed in respect of the operational processes taking place within the Plot 7 Development or the material change in the output therefrom must be capable of affecting the calculation of the Baseline Carbon Level; and
- 3.6.2 upon request, the Developer and Magus shall immediately furnish the Local Planning Authority with evidence of the said material change in the type or quantity of the equipment employed in respect of the operational processes taking place within the Plot 7 Development or material change in the output therefrom to the reasonable satisfaction of the Local Planning Authority; and
- 3.6.3 between 1 March and 28 April of the year following the Developer and Magus shall recalculate the Baseline Carbon Level to take into account the

material change in the type or quantity of the equipment employed in respect of the operational processes taking place within the Plot 7 Development or the material change in the output therefrom in accordance with its obligations in respect of the submission of the Annual Renewables Report.