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**137226/FO/2023 and 137227/FO/2023 - Applicant's Response to Third Party Objection (27/02/35)**

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From Britton, Ed [REDACTED]

Date Mon 16/03/2026 18:31

To Lucy Harrison [REDACTED]

Cc Cooper, John [REDACTED] Poole, Rachel J [REDACTED]

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Dear Lucy,

Please find below the Applicant's response to the letters of objection that were uploaded to the planning portal on 27 February 2026 in respect of application references 137226/FO/2023 and 137227/FO/2023. The response has been prepared by the Applicant with support from Deloitte, Curtins Transport and Town Legal.

For the avoidance of doubt, the response seeks to clarify the Applicant's position in relation to the matters raised, which is supported by Case Law and does not introduce any new information or amend the pending planning application.

The Applicant and its professional team have distilled the points raised by the objection letter to the following matters and address them in turn.

**Response to WM Letter: Paragraphs 2.1- 3.6:**

The profit levels are consistent with the first draft S.106 and the ranges are within or below the range identified within the National Planning Practice Guidance, adjusted for risk.

The appropriate profit levels are a matter for the Local Authority to decide, as they deem appropriate.

Retaining flexibility in the permission to have the ability to deliver Build to Rent is important, as this provides the ability for the Applicant to respond to market demand. This is consistent with the approach adopted for other residential schemes that have been brought forward in Manchester.

Furthermore:

- WM Letter: Paragraph 2.9.1 – There is no force in this point. In complex phased projects such as the Applications, there is nothing unusual about such an approach being adopted and agreed between a developer and a local planning authority particularly in the context of the large complex multi-phase schemes in the present case.
- WM Letter: Paragraph 2.9.2 - GJSEL suggests that the proposal that any surplus profit, after deducting developer profit, will be shared between MCC and RBL 50/50 is neither reasonable nor logical. This criticism is unsubstantiated and misconceived in any event. There is nothing unreasonable or illogical about the proposed equal division of the surplus (which is routinely and standardly agreed in viability review mechanisms- both by MCC and other local planning authorities) recognising that such a division provides a commercial incentive to the developer (in this case RBL) to both improve its margin and attract investment etc. There is no national, regional or local policy or guidance which mandates what the particular apportionment of the surplus should be in a viability review mechanism. It is, therefore, a matter for agreement between a developer and a local planning authority in any given case. For proposed developments on the scale and complexity of the Applications, such an equal division is entirely reasonable. Indeed, such an equal division was proposed, for example, in the viability

review mechanism for the proposed redevelopment of the Elephant and Castle shopping centre, and no judicial criticism was levelled at this proposed approach by either the High Court or the Court of Appeal in the Flynn litigation [Flynn, R (On the Application Of) v The London Borough of Southwark Council & Anor [2021] EWCA Civ 827 (28 May 2021) (para 29 of the judgment)].

- WM Letter: Paragraph 2.9.3 - The PPG does not prescribe a detailed prescriptive methodology for viability review mechanisms. The purpose and intent of the helpful PPG viability guidance (including paragraph 10-009-20190509) is to provide principles and a framework for understanding and assessing development viability. It outlines key concepts and sets out recommended approaches to matters and considerations for viability assessments (both at the plan making and decision taking stages) but it does not mandate specific methods, formulas or calculations. Contrary to what the GJSEL suggest, the proposed methodology and terms of the proposed viability review mechanisms in the section 106 agreements are in accordance with the principles of the PPG, and it is denied that the methodology and/or mechanism is non-compliant with the PPG as is alleged by GJSEL or at all.

**Response to WM Letter: Paragraphs 3.1 – 3.4:**

The submitted FVA has applied the correct methodology, which is consistent with National Planning Practice Guidance and has been independently reviewed by the Council's appointed Viability Assessor.

**Response to WM Letter: Paragraph 3.5**

The originally submitted FVA was superseded by an updated FVA, prepared by Roger Hannah Associates, which has since been independently reviewed by the Council's appointed Viability Assessor. On this basis, the originally submitted FVA should be disregarded.

**Response to WM Letter: Paragraph 4.7:**

The Holcroft Moss chargeable contribution is de-minimis in the context of each proposal and therefore does not materially affect the agreed FVA position. This position has been confirmed by the Council's independently assessed viability assessors.

**Response to WM Letter: Paragraphs 4.1 – 4.9:**

The Technical Note: Holcroft Moss SPD (dated 3rd February 2026) referred to 2022 traffic surveys ('baseline data'). These surveys were referred to in the context of the Transport Assessment (TA) and Environmental Statement (ES) that were submitted as part of the planning application, and these surveys were valid for use at the point of submission.

The assessment of impacts at Holcroft Moss is based on robust and worst-case trip generation methodology for the proposed development, which concludes that the traffic forecasts exceed the SPD thresholds and a financial contribution is payable.

Determining what information should be included in an ES to report on the likely significant environmental effects of the proposed development, and whether that information is and remains adequate, is ultimately a matter of evaluative planning judgment for the Council (see the judgment of Sullivan J. in R. (on the application of Blewett) v Derbyshire County Council [2003] EWHC 2775 (Admin); [2004] Env LR 29, at paragraphs 32, 33 and 41).

GJSEL put forward misconceived complaints, in its letter of 27th February, as to the purported deficiencies with the ES is a paradigm example of the unduly legalistic approach to ES requirements which the Courts have repeatedly frowned upon.

Indeed, in the case of Blewett, Sullivan J (as he was then) said:

"41. Ground 1 in these proceedings is an example of the unduly legalistic approach to the requirements of Sch.4 to the Regulations that has been adopted on behalf of claimants in a number of applications for judicial review seeking to prevent the implementation of development proposals. The Regulations should be interpreted as a whole and in a common-sense way. The requirement that "an EIA application" (as defined in the Regulations) must be accompanied by an environmental statement is not intended to obstruct such development... In an imperfect world it is an unrealistic counsel of perfection to expect that an applicant's environmental statement will always contain the "full information" about the environmental impact of a project. The Regulations are not based upon such an unrealistic expectation... There will be cases where the document purporting to be an environmental statement is so

deficient that it could not reasonably be described as an environmental statement as defined by the Regulations..., but they are likely to be few and far between.”

In addition, the Courts have held (so far as is relevant for present purposes):

- that an ES does not need to include “every conceivable scrap of environmental information about a particular project” per Harrison J. in *R v Cornwall County Council ex p Hardy* [2001] Env LR 26;
- that if the ES did contain everything it would be voluminous and there would be a real danger of the public/local planning authority “losing the wood for the trees”: Sullivan J in *R v. Rochdale Metropolitan Borough Council*, ex p. Milne (2000) 81 P & CR 365; and
- In the case of *Davies v Secretary of State for Communities and Local Government* [2008] EWHC 2223 (Admin) per Sullivan J. that “ ... In an ideal world the applicant's Environmental Statement would be the last word on the environmental impact of a proposal because it would contain the ‘full information’ ... However, the Regulations are not premised upon such a counsel of perfection ...”

Applying the above case law to the present case, it is plain that the ES is not deficient as is alleged by GJSEL or at all and if (which is not admitted) further environmental information could theoretically be provided about the proposed development that this is a counsel of perfection and not required under the EIA Regulations.

For the reasons set out above, we consider the Applicant has fully addressed the points that are relevant to the planning application. However, please let us know if there are any further matters you would like us to address.

Kind regards,

Ed

**Ed Britton**

Pronouns: he / him / his

Director | Deloitte LLP

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