

# DEVELOPMENT COMMITTEE

---

**Wednesday, 10 May 2017 at 7.00 p.m.**  
**Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove  
Crescent, London, E14 2BG**

**The meeting is open to the public to attend.**

**Members:**

Chair: Councillor Marc Francis

Vice Chair :

Councillor Sabina Akhtar, Councillor John Pierce, Councillor Danny Hassell, Councillor Andrew Cregan, Councillor Suluk Ahmed and Councillor Chris Chapman

**Substitutes:**

Councillor Denise Jones, Councillor Candida Ronald, Councillor Harun Miah, Councillor Mahbub Alam, Councillor Andrew Wood, Councillor Julia Dockerill and Councillor Gulam Kibria Choudhury

[The quorum for this body is 3 Members]

**Public Information.**

The deadline for registering to speak is **4pm Monday, 8 May 2017**

Please contact the Officer below to register. The speaking procedures are attached

The deadline for submitting material for the update report is **Noon Tuesday, 9 May 2017**

**Contact for further enquiries:**

Zoe Folley, Democratic Services,

1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG

Tel: 020 7364 4877

E-mail: [zoe.folley@towerhamlets.gov.uk](mailto:zoe.folley@towerhamlets.gov.uk)

Web: <http://www.towerhamlets.gov.uk/committee>

Scan this code for  
an electronic  
agenda:



## Public Information

### **Attendance at meetings.**

The public are welcome to attend meetings of the Committee. However seating is limited and offered on a first come first served basis.

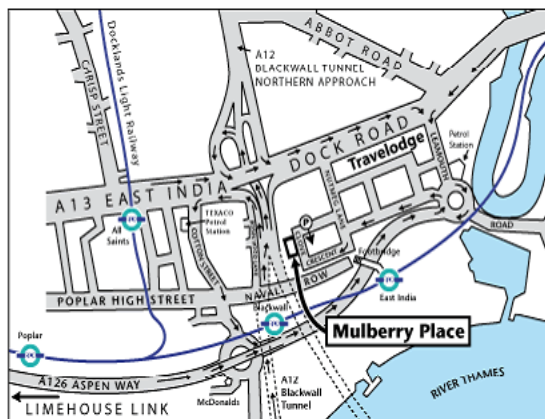
### **Audio/Visual recording of meetings.**

Should you wish to film the meeting, please contact the Committee Officer shown on the agenda front page

### **Mobile telephones**

Please switch your mobile telephone on to silent mode whilst in the meeting.

### **Access information for the Town Hall, Mulberry Place.**



Bus: Routes: D3, D6, D7, D8, 15, 108, and 115 all stop near the Town Hall.

Docklands Light Railway: Nearest stations are East India: Head across the bridge and then through the complex to the Town Hall, Mulberry Place

Blackwall station: Across the bus station then turn right to the back of the Town Hall complex, through the gates and archway to the Town Hall.

Tube: The closest tube stations are Canning Town and Canary Wharf .

Car Parking: There is limited visitor pay and display parking at the Town Hall (free from 6pm)

If you are viewing this on line: ([http://www.towerhamlets.gov.uk/content\\_pages/contact\\_us.aspx](http://www.towerhamlets.gov.uk/content_pages/contact_us.aspx))

### **Meeting access/special requirements.**

The Town Hall is accessible to people with special needs. There are accessible toilets, lifts to venues. Disabled parking bays and an induction loop system for people with hearing difficulties are available. Documents can be made available in large print, Braille or audio version. For further information, contact the Officers shown on the front of the agenda.



### **Fire alarm**

If the fire alarm sounds please leave the building immediately by the nearest available fire exit without deviating to collect belongings. Fire wardens will direct you to the exits and to the fire assembly point. If you are unable to use the stairs, a member of staff will direct you to a safe area. The meeting will reconvene if it is safe to do so, otherwise it will stand adjourned.

### **Electronic agendas reports and minutes.**

Copies of agendas, reports and minutes for council meetings can also be found on our website from day of publication.

To access this, click [www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee) and search for the relevant committee and meeting date.

Agendas are available at the Town Hall, Libraries, Idea Centres and One Stop Shops and on the Mod.Gov, Apple and Android apps.



QR code for smart phone users

## **APOLOGIES FOR ABSENCE**

### **1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS (Pages 1 - 4)**

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992. See attached note from the Monitoring Officer.

### **2. MINUTES OF THE PREVIOUS MEETING(S) (Pages 5 - 12)**

To confirm as a correct record the minutes of the meeting of the Development Committee held on 8<sup>th</sup> February 2017

<b>PAGE NUMBER</b>	<b>WARD(S) AFFECTED</b>
------------------------	-----------------------------

### **3. RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE**

**13 - 14**

To RESOLVE that:

- 1) in the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes is delegated to the Corporate Director Place along the broad lines indicated at the meeting; and
- 2) in the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Corporate Director Place is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision.
- 3) To note the procedure for hearing objections at meetings of the Development Committee and meeting guidance.

<b>4.</b>	<b>DEFERRED ITEMS</b>	<b>15 - 16</b>	
<b>4 .1</b>	<b>Balmoral House, 12 Lanark Square, London E14 9QD (PA/16/1081)</b>	<b>17 - 54</b>	<b>Blackwall &amp; Cubitt Town</b>
	Proposal:		
	Erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision		
	Recommendation:		
	The Committee resolves to Grant Planning Permission subject to conditions		
<b>5.</b>	<b>PLANNING APPLICATIONS FOR DECISION</b>	<b>55 - 56</b>	
<b>5 .1</b>	<b>106 Commercial Street, (PA/16/03535)</b>	<b>57 - 80</b>	<b>Spitalfields &amp; Banglatown</b>
	Proposal:		
	Conversion of building (class B1/B8 ) to fine dining food market (Class A3).		
	Recommendation:		
	That the Committee resolve to APPROVE planning permission subject to Conditions.		
<b>5 .2</b>	<b>Millwall Outer Dock Moorings, Selsdon Way, London (PA/16/01798)</b>	<b>81 - 104</b>	<b>Canary Wharf</b>
	Proposal:		
	Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.		
	Recommendation:		
	That the Committee resolve to GRANT planning permission, subject to conditions.		

**6. OTHER PLANNING MATTERS** **105 - 106**

**6.1 Proposed Revised Planning Code of Conduct** **107 - 134**

The Committee is recommended to:

1. Note the revised Planning Code of Conduct in Appendix 1 of the report;
2. Note that pursuant to Part 1 Paragraph 4.02 of the Constitution the adoption and amendment of the revised Planning Code of Conduct is a matter for Council; and
3. Comment generally on the revised Planning Code of Conduct so that these comments can be reflected prior to the revised Code being put forward for adoption.

**Next Meeting of the Development Committee**

Wednesday, 14 June 2017 at 5.30 p.m. to be held in the Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG

This page is intentionally left blank

# Agenda Item 1

## **DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER**

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

### **Interests and Disclosable Pecuniary Interests (DPIs)**

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

### **Effect of a Disclosable Pecuniary Interest on participation at meetings**

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

**Further advice**

For further advice please contact:-

Graham White, Acting Corporate Director of Law Probit and Governance and Monitoring Officer, Telephone Number: 020 7364 4801



## APPENDIX A: Definition of a Disclosable Pecuniary Interest

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	<p>Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member.</p> <p>This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.</p>
Contracts	<p>Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority—</p> <p>(a) under which goods or services are to be provided or works are to be executed; and</p> <p>(b) which has not been fully discharged.</p>
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	<p>Any tenancy where (to the Member's knowledge)—</p> <p>(a) the landlord is the relevant authority; and</p> <p>(b) the tenant is a body in which the relevant person has a beneficial interest.</p>
Securities	<p>Any beneficial interest in securities of a body where—</p> <p>(a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and</p> <p>(b) either—</p> <p>(i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or</p> <p>(ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.</p>

This page is intentionally left blank

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE DEVELOPMENT COMMITTEE**

**HELD AT 7.00 P.M. ON WEDNESDAY, 8 FEBRUARY 2017**

**COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Marc Francis (Chair)  
Councillor Sabina Akhtar  
Councillor John Pierce  
Councillor Suluk Ahmed  
Councillor Danny Hassell  
Councillor Julia Dockerill (Substitute for Councillor Chris Chapman)  
Councillor Shafi Ahmed (Substitute for Councillor Shah Alam)

**Other Councillors Present:**

Councillor Andrew Wood

**Apologies:**

Councillor Chris Chapman  
Councillor Shah Alam

**Officers Present:**

Paul Buckenham	(Development Control Manager, Planning Services, Place)
Jane Jin	(Team Leader, Place)
Abiodun Kolawole	(Legal Services, Governance)
Gyanendra Datt	(Planning Officer, Planning Services, Place)
Zoe Folley	(Committee Officer, Governance)

**1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

No declarations of interest were made.

**2. MINUTES OF THE PREVIOUS MEETING(S)**

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 11 January 2017 be agreed as a correct record and signed by the Chair.

### **3. RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE**

The Committee **RESOLVED** that:

- 1) In the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes is delegated to the Corporate Director, Development and Renewal along the broad lines indicated at the meeting; and
- 2) In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Corporate Director, Development and Renewal is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision
- 3) To note the procedure for hearing objections at meetings of the Development Committee and the meeting guidance.

### **4. DEFERRED ITEMS**

#### **4.1 (Locksley Estate Site D) Land at Salmon Lane and adjacent to 1-12 Parnham Street, London (PA/16/02295)**

Application withdrawn from the planning register by the applicant.

### **5. PLANNING APPLICATIONS FOR DECISION**

#### **5.1 Balmoral House, 12 Lanark Square, London E14 9QD (PA/16/1081/A1)**

Paul Buckenham (Development Control Manager) introduced the application for the erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision

The Chair then invited the registered speaker to address the Committee.

Local residents and Councillor Andrew Wood spoke in objection to the proposal. They highlighted the level of opposition to the proposal amongst residents and local Councillors and expressed concern about the risk to the structure of the building should the development go ahead. The health and safety implications of this for residents were unacceptable. Furthermore, the marketing evidence showed that the new units would not be for local people. They also expressed concern about the lack of consultation by the developer with the residents, noise disturbance during the construction phase, adding to the existing impacts from the work on neighbouring developments.

Concern was expressed also about incremental development of the block and the cumulative impact from this. This approach meant that no affordable housing could be required. It was considered that was a relatively unique project and there was no planning policy covering this type of development. Therefore, it was at the Committee's discretion to reach their own decision on the application. Concern was also expressed about the lack of local amenities to accommodate the dwellings arising from the fact the development was originally a commercial premises. It was also questioned whether there was a need for additional housing in this area given the number of new developments. Concern was also expressed about the waste plans.

In response to questions from the Members they explained in further detail their concerns about the adequacy of the consultation during the Christmas period and noise disruption during the construction works. They also clarified their concerns about the structural issues, the lack of amenities to accommodate the development, and incremental development of the site given the planning history in respect of the lower floors.

George Georgiou (Applicant) John Dowland (Resident of Balmoral House) and David Mansoor (Agent) spoke in support of the application. They considered that the issues raised had been addressed in the Officers report. An ample amount of consultation had been carried out with LBTH and also with residents. The proposal had been well advertised and many of the residents saw the advantages of the proposal. Objections had been raised. But most of these concerned structural issues and tenant and landlord matters that were not planning matters. In any event, the structural issues could be dealt with through party wall agreement to ensure that the interests of residents were safeguarded. It was also stated that the plans would deliver nine high quality new homes in an accessible location in terms of public transport links. The mix of units complied with policy. The plans mirrored the nearby Marina Point development and the Council's Urban Design Officer considered that it would be in keeping with the area.

In response to questions from the Committee, they outlined the nature of the consultation. Every effort had been made to reach out to all the tenants and leaseholders. Many of the residents of the development itself supported the application and felt that the benefits would offset any issues. They also reported that the plans had been amended to address the concerns.

In response to further questions, the speakers confirmed that it was intended that the communal areas would be upgraded as part of the work at no cost to the leaseholders. The Committee were advised that this was not a planning matter.

The speakers also answered further questions about the quality of the proposed units and private amenity space, the structural issues, the measures to prevent overlooking to neighbours and preserve the occupants' wellbeing during the construction phase. They also addressed the concerns about incremental development.

Jane Jin (Planning Services) presented the application, explaining the site location and the nature of the area. The building formed part of a cluster of buildings. Permission was granted in 2013 to convert office space on the ground floor to residential space as detailed in the Committee report.

In terms of the background to this proposal, consultation was originally carried out in mid 2016. The application was then amended and a second round of consultation was carried out in December 2016. Turning to the assessment, the provision of nine additional housing at the site was welcomed to meet the Borough's housing demand. The plans did not trigger the Council's affordable housing policy given the number of units. In addition Officers did not consider that the plans could be considered as incremental development given the nature of and timing of the previous consents as set out in the Committee report. Eight of the nine units would benefit from private amenity space. Given the overall standard of the units, this slight shortfall in private amenity space was considered acceptable. The height and design of the proposal would be appropriate for its context and there would be measures to minimise the impact on the neighbouring buildings especially at the 'pinch point' between buildings. Officers also explained the refuse plans and the impact on car parking at the site. Given the merits of the application, Officers were recommending that it was granted permission.

In response to the presentation, Members asked questions about the policy guidance for assessing the application. Officers confirmed that there were a range of policies for assessing this application in respect of the density of the application, design, sunlight and daylight impacts amongst other matters.

Members also asked about the changes to the scheme to address the concerns and about the lack of any affordable housing. It was reported that changes had been made to the design and further information had been submitted about the daylight and sunlight impacts. As explained in the presentation, due to its size, the application did not trigger the Council's affordable housing policy.

The Committee also asked about the planning history. It was noted that at the time of the recent Marina Point consent, there were no indication that a further application would come forward at this site. Furthermore, given the lack of any physical links between the two developments, Officers did not consider that the incremental development policy could be applied in relation to this aspect of the plans. The policy stated that there needed to be a link between the functioning of the two developments for it to be relevant and in this case there was not.

Members also asked questions about the density of the application and the lack of any additional child play space or communal space to cater for the new occupants. It was confirmed there was no requirement in policy to provide this for schemes of this size.

In response to further questions, Officers outlined the waste management plans, the New Homes Bonus funding and the construction management plans that would mitigate the impact of the works. The Committee also

discussed the lack of LBTH Environmental Health comments and the reasons for this.

On a vote of 0 in favour of the Officer recommendation to grant planning permission, 6 against and 1 abstention, the Committee did not agree the Officer recommendation to grant planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the planning permission be not accepted (for the reasons set out below) and on a vote of 6 in favour, 0 against and 1 abstention, the Committee **RESOLVED**:

That the Officer recommendation to grant planning permission at Balmoral House, 12 Lanark Square, London E14 9QD be **NOT ACCEPTED** for the erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision (PA/16/1081/A1)

The Committee were minded to refuse the application due to concerns over:

- Overlooking from the proposal to neighbouring properties and the failure to mitigate this.
- The approach to incremental development across the site in terms of the affordable housing, communal amenity space and child play space issues.
- Density of the proposal and the steps taken to mitigate this.
- Adverse impact on residential amenity during the construction phase.

In accordance with Development Procedural Rules, the application was **DEFERRED** to enable Officers to prepare a supplementary report to a future meeting of the Committee setting out proposed detailed reasons for refusal and the implications of the decision.

## 5.2 12 Follett Street, London, E14 6LX (PA/16/02786)

Update report tabled.

Paul Buckenham (Development Control Manager) introduced the application for Change of use to residential accommodation and associated office (Sui Generis).

The Chair then invited the registered speaker to address the Committee.

Taj Uddin Shah spoke in support of the application. He reported that he was requesting that the temporary permission be granted to allow adequate time for his long standing practice to relocate to another premises. The solicitors practice was a community based firm that provided services to the community and local employment. No objections had been received and there was a great deal of support for the application. He also reported that he was unaware of the 'Council's zero policy' in relation to commercial uses in the immediate area given that there were some commercial developments in the

surrounding area. The property was currently being used as live/work unit.

In response to questions, he highlighted the strength of support for the proposal and the layout of the premises comprising residential and office space. He also commented on the sites good transport links and explained there was a limited amount of car parking available for staff. He also stressed that the application was for a temporary permission as set out in the update report and if approved it would revert back to residential use once the permission has come to an end.

Gyanendra Datt (Planning Services) presented the application describing the site location. Permission was being sought to establish a live/work unit in an existing residential site. The site was already being used as a solicitors office which was not authorised.

A similar application was submitted and refused in 2016 on the grounds that it would result in the loss of housing and was against the Council's policy. An appeal against this decision was refused. The Planning Inspectors reasons for refusal were set out in the report.

Consultation had been carried out on the application. In responses 2 petitions and representations had been received in support along with supporting representation from Councillors.

Officers had carefully considered the merits of the scheme. Based on the findings of the Inspector about the loss of housing and the concerns about the quality of the living environment, Officers considered that the application should be refused planning permission for the reasons set out in the Committee report.

In response the Committee asked questions about the residential element of the current arrangement. It was questioned whether the fact that it currently provided a live/work unit with intermittent residential use had been taken into account. Members also asked questions about the possibility of imposing a set time limit of the permission.

It was reported that the policy generally discouraged dual use units (as reported above) as in the majority of cases, such arrangements were very difficult to enforce. Furthermore, the temporary nature of the proposal had been considered and the Inspector was of the view that regardless of this, it would still result in the loss of housing space and this should be avoided. There was no evidence to suggest that the unit was unsuitable for residential purposes.

It was open to the Committee to decide whether to grant the permission for a temporary period. But exceptional circumstances should really be demonstrated to justify the proposed deviation from policy especially as there was no evidence that a relocation agreement was in place. It was noted that if refused, a planning enforcement notice would be issued and the applicant could appeal that decision and request that the time set out in the notice for compliance be varied.



On a vote of 3 in favour of the Officer recommendation and 4 against, the Committee did not agree the Officer recommendation to refuse the planning permission.

Accordingly, Councillor Marc Francis proposed a motion that the temporary planning permission be granted for a three year period and on a vote of 4 in favour and 3 against, the Committee **RESOLVED**:

1. That temporary planning permission be **GRANTED** at 12 Follett Street, London, E14 6LX for the change of use to residential accommodation and associated office (Sui Generis) for a three year period (PA/16/02786)
2. That Officers be delegated authority to impose conditions on the planning permission.

## 6. OTHER PLANNING MATTERS

None.

The meeting ended at 9.30 p.m.

Chair, Councillor Marc Francis  
Development Committee

This page is intentionally left blank

## Guidance for Development Committee/Strategic Development Committee Meetings.

### Who can speak at Committee meetings?

Members of the public and Councillors may request to speak on applications for decision (Part 6 of the agenda). All requests must be sent direct to the Committee Officer shown on the front of the agenda by the deadline – 4pm one clear working day before the meeting. Requests should be sent in writing (e-mail) or by telephone detailing the name and contact details of the speaker and whether they wish to speak in support or against. Requests cannot be accepted before agenda publication. Speaking is not normally allowed on deferred items or applications which are not for decision by the Committee.

The following may register to speak per application in accordance with the above rules:

Up to two objectors on a first come first served basis.	For up to three minutes each.
Committee/Non Committee Members.	For up to three minutes each - in support or against.
Applicant/ supporters.  This includes: an agent or spokesperson.	Shall be entitled to an equal time to that given to any objector/s. For example: <ul style="list-style-type: none"> <li>• Three minutes for one objector speaking.</li> <li>• Six minutes for two objectors speaking.</li> <li>• Additional three minutes for any Committee and non Committee Councillor speaking in objection.</li> </ul>
Members of the public in support	It shall be at the discretion of the applicant to allocate these supporting time slots.

### What if no objectors register to speak against an applicant for decision?

The applicant or their supporter(s) will not be expected to address the Committee should no objectors register to speak and where Officers are recommending approval. However, where Officers are recommending refusal of the application and there are no objectors or members registered, the applicant or their supporter(s) may address the Committee for 3 minutes.

The Chair may vary the speaking rules and the order of speaking in the interest of natural justice or in exceptional circumstances.

Committee Members may ask points of clarification of speakers following their speech. Apart from this, speakers will not normally participate any further. Speakers are asked to arrive at the start of the meeting in case the order of business is changed by the Chair. If speakers are not present by the time their application is heard, the Committee may consider the item in their absence.

This guidance is a précis of the full speaking rules that can be found on the Committee and Member Services webpage: [www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee) under Council Constitution, Part.4.8, Development Committee Procedural Rules.

### What can be circulated?

Should you wish to submit a representation or petition, please contact the planning officer whose name appears on the front of the report in respect of the agenda item. Any representations or petitions should be submitted no later than noon the working day before the committee meeting for summary in the update report that is tabled at the committee meeting. No written material (including photos) may be circulated at the Committee meeting itself by members of the public including public speakers.

**How will the applications be considered?**

The Committee will normally consider the items in agenda order subject to the Chair’s discretion. The procedure for considering applications for decision shall be as follows:  
 Note: there is normally no further public speaking on deferred items or other planning matters



- (1) Officers will announce the item with a brief description.
- (2) Any objections that have registered to speak to address the Committee
- (3) The applicant and or any supporters that have registered to speak to address the Committee
- (4) Committee and non- Committee Member(s) that have registered to speak to address the Committee
- (5) The Committee may ask points of clarification of each speaker after their address.
- (6) Officers will present the report supported by a presentation.
- (7) The Committee will consider the item (questions and debate).
- (8) The Committee will reach a decision.

Should the Committee be minded to make a decision contrary to the Officer recommendation and the Development Plan, the item will normally be deferred to a future meeting with a further Officer report detailing the implications for consideration.

**How can I find out about a decision?**

You can contact Democratic Services the day after the meeting to find out the decisions. The decisions will also be available on the Council’s website shortly after the meeting.

For queries on reports please contact the Officer named on the front of the report.

<p><b>Deadlines.</b>                  To view the schedule of deadlines for meetings (including those for agenda papers and speaking at meetings) visit the agenda management timetable, part of the Committees web pages.                  Visit <a href="http://www.towerhamlets.gov.uk/committee">www.towerhamlets.gov.uk/committee</a> - search for relevant Committee, then ‘browse meetings and agendas’ then ‘agenda management timetable’.</p>	 Scan this code to view the Committee webpages.
<p><b>The Rules of Procedures for the Committee are as follows:</b></p> <ul style="list-style-type: none"> <li>• Development Committee Procedural Rules - Part 4.8 of the Council’s Constitution (Rules of Procedure).</li> <li>• Terms of Reference for the Strategic Development Committee - Part 3.3.5 of the Council’s Constitution (Responsibility for Functions).</li> <li>• Terms of Reference for the Development Committee - Part 3.3.4 of the Council’s Constitution (Responsibility for Functions).</li> </ul>	 Council’s Constitution

# Agenda Item 4

<b>Committee:</b> Development	<b>Date:</b> 10 May 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director Place		<b>Title:</b> Deferred Items	
<b>Originating Officer:</b>		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

- 1.1 This report is submitted to advise the Committee of planning applications that have been considered at previous meetings and currently stand deferred. The following information and advice applies to them.

## 2. DEFERRED ITEMS

- 2.1 The following item is in this category:

Date deferred	Reference number	Location	Development	Reason for deferral
8 March 2017	(PA/16/1081)	Balmoral House, 12 Lanark Square, London E14 9QD	Erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision	<p>Committee indicated that it was minded to refuse the application due to concerns about:</p> <p>Overlooking from the proposal to neighbouring properties and the failure to mitigate this</p> <p>The approach to incremental development across the site in terms of affordable housing, communal amenity space and child play space.</p> <p>Density of the proposal</p> <p>Adverse impact on residential amenity during the construction phase</p>

**LOCAL GOVERNMENT ACT 2000 (Section 97)  
LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 6**

Brief Description of background papers:  
See Individual reports

Tick if copy supplied for register:  
✓

Name and telephone no. of holder:  
See Individual reports

---

--	--	--	--	--

**3. CONSIDERATION OF DEFERRED ITEMS**

3.1 The following deferred application is for consideration by the Committee. The original reports along with any update reports are attached.

(PA/16/1081) Balmoral House, 12 Lanark Square, London E14 9QD

3.2 Deferred applications may also be reported in the Addendum Update Report if they are ready to be reconsidered by the Committee. This report is available in the Council Chamber 30 minutes before the commencement of the meeting.

**4. PUBLIC SPEAKING**

4.1 As public speaking has already occurred when the Committee first considered these deferred items, the Council's Constitution does not allow a further opportunity for public speaking. The only exception to this is where a fresh report has been prepared and presented in the "Planning Applications for Decision" part of the agenda. This is generally where substantial new material is being reported to Committee and the recommendation is significantly altered.

**5. RECOMMENDATION**

5.1 That the Committee note the position relating to deferred items and to take any decisions recommended in the attached reports.

# Agenda Item 4.1

<b>Committee:</b> Development Committee	<b>Date:</b> 10 <sup>th</sup> May 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
---	---	--	----------------------------

<b>Report of:</b>  Corporate Director of Place	<b>Title:</b> Applications for Planning Permission  <b>Ref No:</b> PA/16/1081
<b>Case Officer:</b> Angelina Eke	<b>Ward:</b> Blackwall and Cubitt Town

## 1. APPLICATION DETAILS

**Location:** Balmoral House, 12 Lanark Square, London E14 9QD

**Existing Use:** Residential

**Proposal:** Erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision

**Drawing No.'s:** Existing

BALHO\_E001\_Existing\_Front Elevation - Revision A  
BALHO\_E002\_Existing\_Rear Elevation - Revision A  
BALHO\_E003\_Existing\_Side Elevation 1 - Revision A  
BALHO\_E004\_Existing\_Side Elevation 2 - Revision A  
BALHO\_L000\_Existing\_OS map  
BALHO\_P000\_Existing\_Basement Plan - Revision A  
BALHO\_P001\_Existing\_Ground Floor - Revision A  
BALHO\_P002\_Existing\_First Floor - Revision A  
BALHO\_P003\_Existing\_Second Floor - Revision A  
BALHO\_P004\_Existing\_Third Floor - Revision A  
BALHO\_P005\_Existing\_Fourth Floor - Revision A  
BALHO\_P006\_Existing\_Roof Plan - Revision A  
BALHO\_S001\_Existing\_Section AA' - Revision A  
L001 Rev A – Existing Site Plan

Proposed drawings

BALHO\_D202\_Proposed - Wall Detail - Revision B  
BALHO\_D203\_Proposed - Bin Storage - Revision C  
BALHO\_D204\_Proposed - Cycle Parking - Revision B  
BALHO\_E201\_Proposed - Front Elevation - Revision C  
BALHO\_E202\_Proposed - Rear Elevation - Revision C  
BALHO\_E203\_Proposed - Side Elevation 1 - Revision C  
BALHO\_E204\_Proposed - Side Elevation 2 - Revision C  
BALHO\_L201\_Proposed - Site Plan - Revision C  
BALHO\_MS201\_Proposed - Material Strategy - Revision B  
BALHO\_P200\_Proposed - Basement Plan - Revision B  
BALHO\_P201\_Proposed - Ground Floor - Revision C  
BALHO\_P202\_Proposed - First Floor - Revision B  
BALHO\_P203\_Proposed - Second Floor - Revision B  
BALHO\_P204\_Proposed - Third Floor - Revision B

BALHO\_P205\_Proposed - Fourth Floor - Revision B  
BALHO\_P206\_Proposed - Fifth Floor - Revision B  
BALHO\_P207\_Proposed - Sixth Floor - Revision B  
BALHO\_P208\_Proposed - Roof Plan - Revision C  
BALHO\_S201\_Proposed - Section AA - Revision C  
BALHO\_V201\_Proposed - 3d Views - Revision B

**Documents:** Appraisal Report of the existing and proposed structures dated April 2016, Alan Baxter Partnership (Ref D532), Construction Management Plan, Drawing & Planning Ltd Design and Access Statement, Daylight and Sunlight Report Rev A dated 30<sup>th</sup> November 2016, Waldrams Limited (Ref : 1123) Flood Risk Assessment, GTA Civils Limited, April 2016 (First Issue, Ref 6260 2.3 F) Noise Exposure Assessment dated 31/03/2016, Clement Acoustics Ref 11040-NEA-01)

**Applicant:** LGI (Group) Limited

**Ownership:** LGI (Group) Limited

**Historic Building:** N/A

**Conservation Area:** N/A

## 2. Background

- 2.1. Members may recall that this application for planning permission was previously considered by the Development Committee on 08<sup>th</sup> February 2017. A copy of the original planning report is appended.
- 2.2. The Committee, on a vote of 0 in favour, 6 against and 1 abstentions, resolved not to accept the officer recommendation to grant planning permission and resolved that permission should be refused on the following grounds:
  - Overlooking from the proposal to neighbouring properties and the failure to mitigate this
  - The approach to incremental development across the site in terms of affordable housing, communal amenity space and child play space.
  - Density of the proposal
  - Adverse impact on residential amenity during the construction phase
- 2.3. In accordance with Development Committee Procedural Rules, the application was DEFERRED to enable officers to prepare a supplementary report with appropriate wording for reasons for refusal and the implications of the decision.



### **3.0 IMPLICATIONS ARISING FROM A DECISION TO REFUSE THE APPLICATION**

- 3.1. In the event that the Committee resolves to refuse the application, the following options are available to the applicant.
- 3.2. The applicant could withdraw the application and later approach the Council for further pre-application advice on an amended proposal and thereafter submit an amended scheme.
- 3.3. The applicant could exercise their right to appeal to the Secretary of State against the Council's decision and lodge an application for costs. The appeal would be determined by an independent inspector appointed by the Secretary of State.
- 3.4. In this regard, Members should be made aware that the applicant's agent has indicated that they are likely to appeal the decision, if members are minded to refuse the scheme and therefore the officer's report has been written to take account of the robustness and strength of each of the concerns raised by members in the event of an appeal.

#### **Financial implications - award of costs**

- 3.5. In dealing with appeals, all parties, including the Local Planning Authority, are expected to behave reasonably to support an efficient and timely process, for example in providing all the required evidence and ensuring that timetables are met. Where a party has behaved unreasonably, and this has directly caused another party to incur unnecessary or wasted expense in the appeal process, they may be subject to an award of costs.
- 3.6. Unreasonable behaviour in the context of an application for an award of costs may be either:
  - Procedural – relating to the process; or
  - Substantive – relating to the issues arising from the merits of the appeal.
- 3.7. An example of the former might be failing to keep to the requirements of an appeal timetable to submit statements of case or other evidence. A further example of the latter might be taking a decision which could be described as unreasonable in the context of all of the evidence available to the decision maker. It is this latter aspect that the Committee members in their role as decision makers need to be mindful of.

### **4.0 COMMITTEE REASONS FOR REFUSAL**

#### **Overlooking from the proposal to neighbouring properties and the failure to mitigate this**

- 4.1 Committee members' raised concerns about the new proposal would result in unacceptable overlooking to the neighbouring proposal and felt that the applicant had failed to mitigate this.
- 4.2 As noted in paragraphs 9.49 to 9.51 on the matters of overlooking and privacy of the officers main report, a careful consideration has been given to the objectives and emphasis of Policy DM25 of the Managing Development Document, which seeks to ensure that new developments do not lead to an unreasonable level of overlooking between habitable rooms of adjacent residential properties and their private amenity spaces. It is accepted that whilst the policy aspiration specifies a distance of approximately 18 metres between windows of habitable rooms to reduce inter-visibility

to a degree acceptable to most people, this aspiration is not easily achieved within an inner city context. Given that the residential units within the three adjoining blocks arose from an office conversion, the existing residential units currently experience a limited separation distance.

- 4.3 The proposal will result in an extension of the building in close proximity to AEGON House. Whilst the proposal would be within the existing building envelope, it will result in the introduction of new terrace features on the building elevation, which, without appropriate mitigation measures, is likely to give rise to a degree of overlooking and Officers have assessed the impact of this within the original planning report against other policy considerations of the scheme.
- 4.4 The main report also sets out on a floor by floor basis how the privacy impacts arising from the proposal are to be addressed. At the closest pinch point between the proposal and Aegon House (3.2 metres), the main report explains how the impacts of overlooking are to be addressed through use of obscure glazing, however, the main bedroom to unit 4.03 on the fourth floor does not benefit from obscure glazing and therefore a degree of indirect overlooking will take place. To a lesser extent due to the screening on the terrace, this is repeated at 5<sup>th</sup> floor level in relation to unit 5.01
- 4.5 The privacy impacts of the proposal in relation to the other properties around the site is considered to be generally acceptable due to the positioning of windows and the employment of obscure glazing and as such, officers are of the view that the level of overlooking is not sufficient to warrant a refusal of the application, however officers acknowledge that overlooking may occur in limited instances.
- 4.6 The applicant has submitted a written response to Members' concerns in relation to privacy and overlooking. In summary, the applicant has acknowledged the 'pinch point' between the buildings is close however the development includes mitigation measures in the form of obscured glazing to prevent an unacceptable relationship. This will remove opportunities for intervisibility between the opposing units in the neighbouring buildings. The existing relationship between the building's lower floors has been mitigated in the same way. In addition, the closest terrace spaces to Aegon House will be inaccessible and privacy screens will be included on other balconies to prevent overlooking from private amenity spaces. The privacy screens would be secured by condition giving LBTH control over their details.
- 4.7 In conclusion, officers consider that the proposal including the siting of private amenity spaces, introduces a level of overlooking that can be adequately mitigated. However, there still remains some loss of privacy and if Members are not satisfied that the mitigation measures are sufficient, then this can legitimately form the basis on which to refuse the application.

**Incremental development across the site in terms of affordable housing, communal amenity space and child play space**

- 4.8 Members have raised concerns about incremental development through the residential intensification of the three blocks and the shortcomings of this within the context of the wider infrastructural requirements required to support the additional population growth, whilst this remains an unresolved concern, members would need to assess the application on its own planning merit.
- 4.9 Having assessed the impact of incremental development arising from the total new units within the application building, officers have concluded that the affordable housing trigger would not be applicable and given that the proposal is not a Major

Development there is no planning policy basis for securing amenity space and child play space. Furthermore, the applicant is not the overall freeholder for the three blocks and therefore there is no control over the timing of the additional dwellings on the estate coming forward.

- 4.10 The applicant has provided a response to this and has stated that it is important to delineate between the current application and previous applications which were made historically under different planning policy and were pursued by different applicants with their own land interest in parts of the wider estate. The current applicant has an interest in the 'air rights' at Balmoral House only which allow a discrete application to be made for a roof level extension. The roof extension must be treated as a self-contained development for nine units; meaning that it remains below the threshold attracting affordable housing provision, communal amenity space and play space provision. In addition, there are no reasonable grounds in law for considering the current planning application for nine residential units at Balmoral House as part of a piecemeal or sequential development which could yield an affordable housing requirement and require consideration in terms of play space and communal amenity space provision. In the view of the applicant, this is not a sustainable position which could be defended as a reason for refusal at appeal and any refusal on these grounds would be likely to attract a costs application from the appellant.
- 4.11 Notwithstanding the applicant's response, officers do not consider that a reason for refusal on this ground can be sustained.

#### **Density of the proposal**

- 4.12 Members have raised concerns about the impacts arising from the increased density. Both local and national policy encourages developments which optimises the potential of previous developed sites. The site is considered to be urban locations with PTAL 4, the London Plan (Table 3A.2) and such locations would normally support a density of between 200 – 750 habitable rooms per hectare (HR/HA). The application site currently has 15 units and together with the proposal, the overall density will be 593 habitable rooms per hectare.
- 4.13 The proposed density is considered to be in line with local and national policy requirements and therefore officers do not consider that a refusal of the scheme on the grounds of excessive density is justified. Density ranges are considerations to be relied on as guidance rather than as an absolute rule. Furthermore, the consideration relating to density is based on other wider factors including site context.

#### **Adverse impact of the proposal during the construction phase**

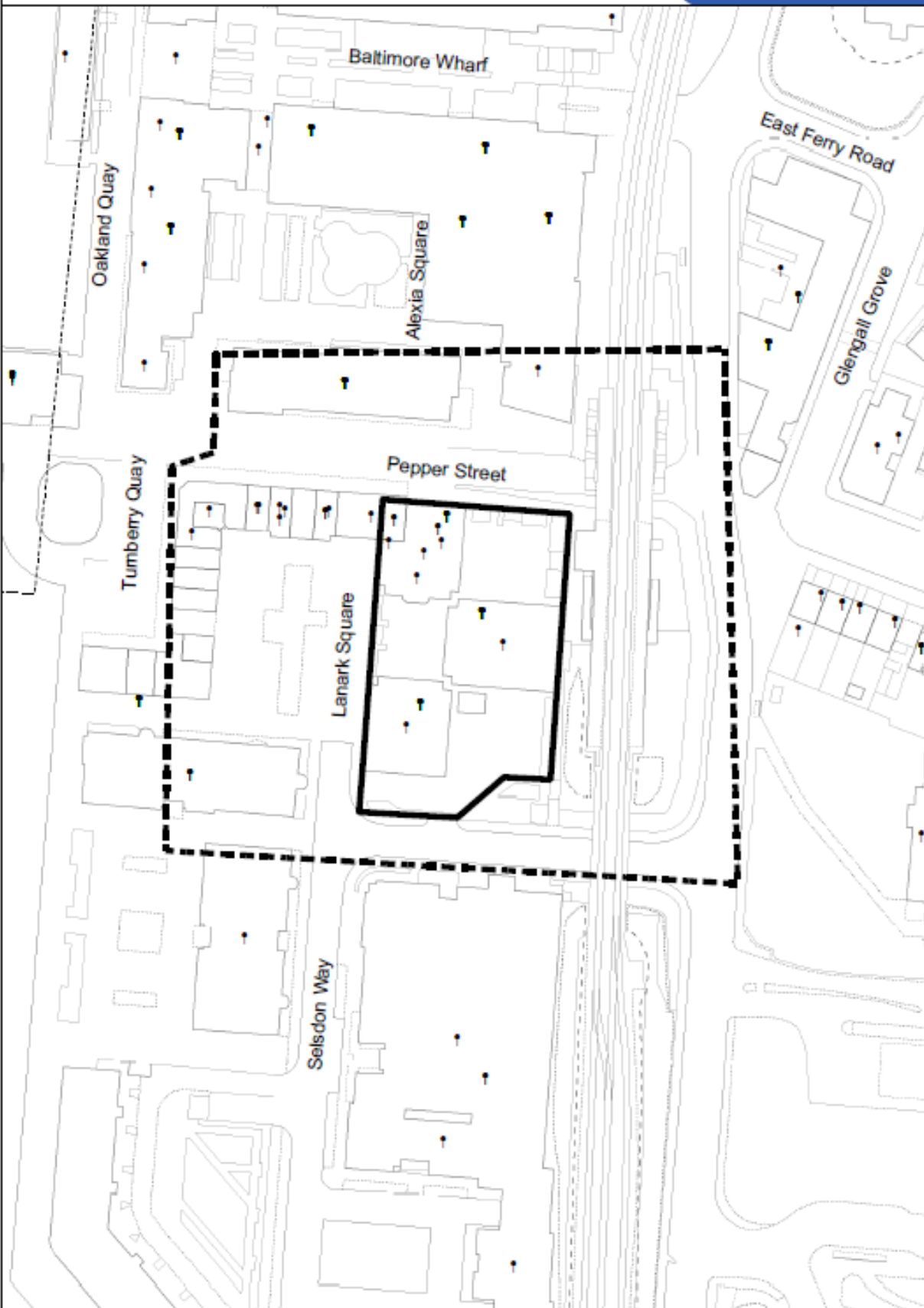
- 4.14 In respect of the construction phase and its impact to the existing residents, it was recommended in the main report that a condition be imposed to secure a construction management plan, which will mitigate noise and dust emissions from demolition and construction works. It is also considered that the hours of construction can also be mitigated to ensure that the amenity of residents is protected. In addition, the applicant has prepared a construction management plan and has responded to state that the design of the proposed extension includes measures to minimise disturbance to residents. For instance, the steel structure of the extension will be independent, creating a noise control buffer, further enhancing the distance between the construction works and sensitive receptors in the building. The design also eradicates the need to fix the new steelwork structure into the existing roof, therefore reducing the noise and vibration created. The applicant has agreed to the principle of relocating residents on the existing top floor of Balmoral House during the first phases of the project.


In conclusion, officers consider that a reason for refusal on this ground would be difficult to defend, however there does exist an appeal precedent (Appeal Ref: APP/E5900/A/12/218429 - Ability Place, 37 Millharbour, London E14 9DL) that takes a contrary approach where the Inspector commented “...it is difficult to see that adequate measures could be put in place which would overcome the effects of noise and disturbance which local residents would experience during the construction period “

Given the above appeal precedent, it is not considered unreasonable for Members to refuse planning permission on the basis of noise and disturbance during the construction phase and a reason for refusal is drafted below.


## **5.0 RECOMMENDATION**

- 5.1 The proposal has not been amended and has been considered in the context of the relevant Development Plan policies and all other material consideration and the officer recommendation to GRANT planning permission remains unchanged.
- 5.2 However, if members are minded to REFUSE planning permission, the following two reasons are recommended, as officers consider issues around density and affordable housing cannot be defended at an appeal.
1. The proposed development will result in unacceptable level of overlooking to the habitable rooms on the northern elevation of Aegon House, due to the proximity of the blocks. The proposal will therefore be contrary to policy SP10 of Tower Hamlets Core Strategy (2010) and Policy DM25 of the Managing Development Document 2013.
  2. The proposal extension of the building would have detrimental impact in terms of noise and nuisance from the construction noise to the existing residents within the building and nearby, and therefore the proposal would fail to safeguard existing residential amenity, contrary to Policy DM25 of the Managing Development Document 2013.





 Planning Application Site Boundary

 Locally Listed Buildings

 Land Parcel Address



 Consultation Area

 Statutory Listed Buildings

0 40 m

This page is intentionally left blank

<b>Committee:</b> Development Committee	<b>Date:</b> 8 <sup>th</sup> February 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
---	---	--	----------------------------

<b>Report of:</b>  Corporate Director of Place	<b>Title:</b> Applications for Planning Permission  <b>Ref No:</b> PA/16/1081/A1
<b>Case Officer:</b> Angelina Eke	<b>Ward:</b> Blackwall and Cubitt Town

## 1. APPLICATION DETAILS

**Location:** Balmoral House, 12 Lanark Square, London E14 9QD

**Existing Use:** Residential

**Proposal:** Erection of three additional storeys to building to create nine new residential units (4 x 1 bed, 3 x 2 bed and 2 x 3 bed) plus external amenity space, associated refuse storage and secure cycle storage provision

**Drawing No.'s:** Existing

BALHO\_E001\_Existing\_Front Elevation - Revision A  
BALHO\_E002\_Existing\_Rear Elevation - Revision A  
BALHO\_E003\_Existing\_Side Elevation 1 - Revision A  
BALHO\_E004\_Existing\_Side Elevation 2 - Revision A  
BALHO\_L000\_Existing\_OS map  
BALHO\_P000\_Existing\_Basement Plan - Revision A  
BALHO\_P001\_Existing\_Ground Floor - Revision A  
BALHO\_P002\_Existing\_First Floor - Revision A  
BALHO\_P003\_Existing\_Second Floor - Revision A  
BALHO\_P004\_Existing\_Third Floor - Revision A  
BALHO\_P005\_Existing\_Fourth Floor - Revision A  
BALHO\_P006\_Existing\_Roof Plan - Revision A  
BALHO\_S001\_Existing\_Section AA' - Revision A  
L001 Rev A – Existing Site Plan

Proposed drawings

BALHO\_D202\_Proposed - Wall Detail - Revision B  
BALHO\_D203\_Proposed - Bin Storage - Revision C  
BALHO\_D204\_Proposed - Cycle Parking - Revision B  
BALHO\_E201\_Proposed - Front Elevation - Revision C  
BALHO\_E202\_Proposed - Rear Elevation - Revision C  
BALHO\_E203\_Proposed - Side Elevation 1 - Revision C  
BALHO\_E204\_Proposed - Side Elevation 2 - Revision C  
BALHO\_L201\_Proposed - Site Plan - Revision C  
BALHO\_MS201\_Proposed - Material Strategy - Revision B  
BALHO\_P200\_Proposed - Basement Plan - Revision B  
BALHO\_P201\_Proposed - Ground Floor - Revision C  
BALHO\_P202\_Proposed - First Floor - Revision B  
BALHO\_P203\_Proposed - Second Floor - Revision B  
BALHO\_P204\_Proposed - Third Floor - Revision B

**Documents:** BALHO\_P205\_Proposed - Fourth Floor - Revision B  
BALHO\_P206\_Proposed - Fifth Floor - Revision B  
BALHO\_P207\_Proposed - Sixth Floor - Revision B  
BALHO\_P208\_Proposed - Roof Plan - Revision C  
BALHO\_S201\_Proposed - Section AA - Revision C  
BALHO\_V201\_Proposed - 3d Views - Revision B

Appraisal Report of the existing and proposed structures dated April 2016, Alan Baxter Partnership (Ref D532), Construction Management Plan, Drawing & Planning Ltd Design and Access Statement, Daylight and Sunlight Report Rev A dated 30<sup>th</sup> November 2016, Waldrams Limited (Ref : 1123) Flood Risk Assessment, GTA Civils Limited, April 2016 (First Issue, Ref 6260 2.3 F) Noise Exposure Assessment dated 31/03/2016, Clement Acoustics Ref 11040-NEA-01)

**Applicant:** LGI (Group) Limited

**Ownership:** LGI (Group) Limited

**Historic Building:** N/A

**Conservation Area:** N/A

## 2. EXECUTIVE SUMMARY

- 2.1. Officers have considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Core Strategy (2010), Tower Hamlets Managing Development Document (2013) the London Plan (MALP 2016) and National Planning Policy Framework (NPPF) (2012) and has found that:
- 2.2. The principle of the use is considered acceptable given the site context as the proposal seeks to make efficient use of a previously developed site to improve the supply of housing. The proposal would contribute to meeting the borough's identified need for housing in a sustainable location which accords with Policies 3.3 and 3.4 of the London Plan (MALP 2016), Policies SP02 and SP10 and Policies DM0, DM1 of the Managing Development Document (2013) and the NPPF. The policies and guidance seek to ensure that the uses of land/buildings are optimised.
- 2.3. The proposed three storey extension to the existing block is acceptable in terms of bulk, massing, scale, height and architectural appearance. The design approach respects the integrity of the existing building and site context. The use of materials will be subject to a condition to ensure the finishes are of high quality. Subject to this, the proposal would accord with Policies 7.4 and 7.6 of the London Plan (MALP 2016), Policies SP10 and SP12 of the Core Strategy (2010) and Policy DM24, which seeks to ensure buildings are of the highest quality design with appropriate finishes.
- 2.4. The proposed dwelling mix is acceptable and it will provide a good range of unit types including family housing. The new flats will be adaptable with acceptable internal



layouts. The units are to be designed to meet lifetime home standards which accords with Policies 3.5, 3.8, 3.9 and 7.2 of the London Plan, Policy SP02 of the Tower Hamlets Core Strategy (2010) and Policies DM3 and DM4 of the Managing Development Document (2013) and the Mayor's Housing Standards (2016).

- 2.5. Given the urban context of the site, it is considered that the proposal will not result in any unduly detrimental impacts on the adjoining residential properties with regard to daylight, sunlight, overshadowing, privacy, outlook or noise. The proposal will be subject to conditions to minimise some of the amenity impacts. Subject to these conditions, the proposal would accord with Policy 7.15 of the London Plan (MALP 2016), Policies SP03 and SP10 of Tower Hamlets Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013) as well as the NPPF.
- 2.6. The proposal includes private amenity space for all but one of the units. The quantum of open space provided for each of the new units is considered to be acceptable overall and this accord with Policy SP02 of the Core Strategy (2010) and Policy DM4 of the Managing Development Document (2013).
- 2.7. With respect to transport issues, it is considered that the transport and servicing arrangements are acceptable. The increase in the residential use of the building is being focused within a highly sustainable location which is to be welcomed as public transport accessibility levels of the site are good. Furthermore, the proposal will be subject to conditions to ensure that it is car free and that adequate cycle parking is provided which should promote sustainable travel options in line with policy requirements.

### **3. RECOMMENDATION**

- 3.1. The Committee resolves to Grant Planning Permission subject to the following conditions:
  - 1) Three Year Time Limit
  - 2) Compliance with approved plans and documents
  - 3) Full details including samples of all facing materials
  - 4) Hours of construction
  - 5) Details including design of the proposed new bin store to be retained for the lifetime of the development
  - 6) Details of acoustic glazing
  - 7) Construction Management Plan (incorporating a site waste management plan)
  - 8) Wheelchair adaptable and wheelchair accessible dwellings
  - 9) A scheme for the provision of obscured glazing to be submitted and agreed in writing by the LPA before the flats are first brought into use and thereafter be maintained
  - 10) Permit free parking
  - 11) Details/location of disabled parking space
  - 12) A minimum of 16 cycle parking spaces (in a secure and accessible location)
  - 13) Details of Privacy Screens
  - 14) Obscure glazing to be installed and permanently retained
  - 15) Details of Scaffolding/Mast Climbers to be agreed in conjunction with TFL
  - 16) Submission and Agreement of an Energy and sustainability strategy
  - 17) If any potential contamination is found then a requirement for mitigation measures

#### Informatives

- 3.2. The following informative are to be attached to the planning permission

- 1) That the development will be subject to a car free s106 agreement
- 2) CIL requirements
- 3) Any other conditions/informative(s) considered necessary by the Corporate Director of Place

#### 4. LOCATION AND PROPOSAL DETAILS

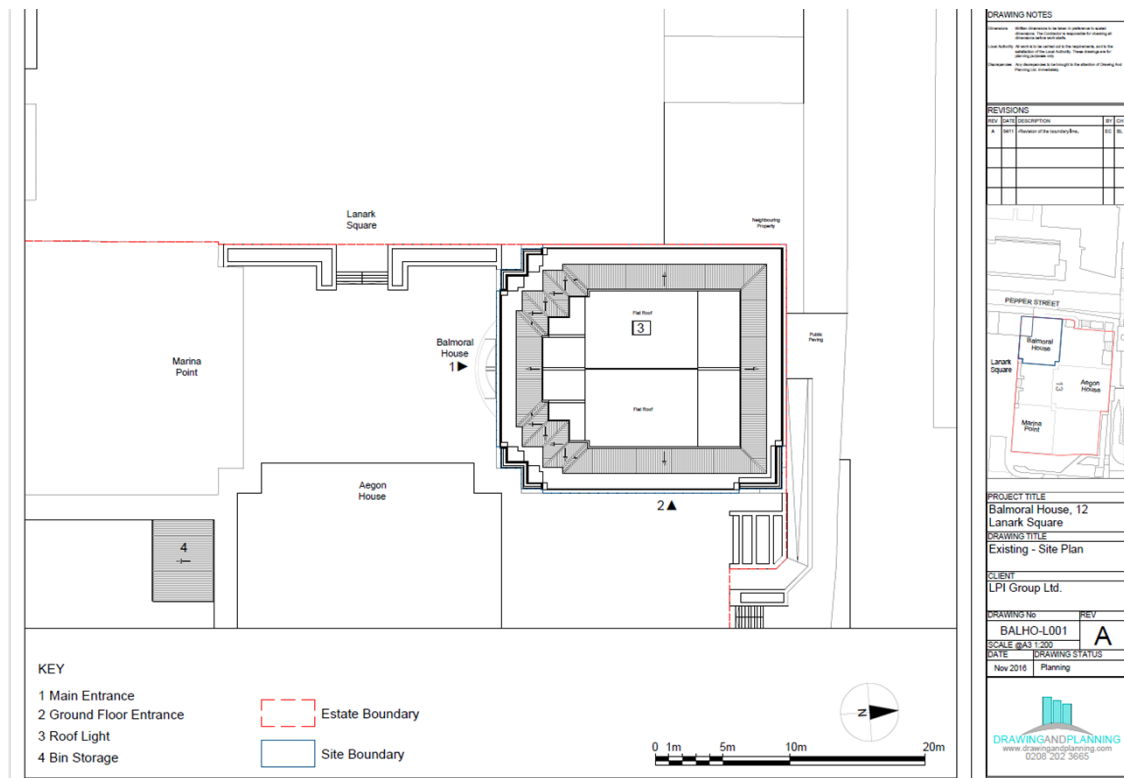
##### Site and Surroundings

- 4.1. The application premises consist of a four storey building with a plant area measuring approximately 390m<sup>2</sup> incorporated within a mansard style roof. The application building lies within Lanark Square Estate, which is a mixed use development forming part of the Glengall Bridge Development.



**Figure 1: Balmoral House**

- 4.2. The application premises forms part of a small cluster of three buildings with Aegon House to the east and Marina Point to the south. All three buildings were former office accommodation until they were converted on the upper floors to residential use in September 1996. The ground floor areas remained in commercial use for many years, however in more recent years; the ground floors for Balmoral House have been converted for residential use. (See Figure 2)



**Figure 2: Balmoral House (Location)**

- 4.3. There is a basement area below the three blocks which accommodates 104 cars and to the south eastern part of the site at ground floor level, there are additional parking spaces plus a single storey refuse bin store for the three residential blocks.
- 4.4. The Crossharbour Docklands Light Railway Station (DLR) is located to the east of the site and Cross Harbour shopping area is located in close proximity. The site is designated within the Cubit Town Vision Area as set out in the Tower Hamlets Core Strategy (2010).
- 4.5. The site is located immediately to the south of Pepper Street and it has an access point from Seldon Way. The site is located within walking distance from Millwall Inner Dock Water which is designated as a water protection area and a site of nature conservation.
- 4.6. The former London Arena site is situated to the north of the application building and this site has been redeveloped for a large-high density residential led mixed-use development, known as Baltimore Wharf. The new buildings facing the north side of Pepper Street range from 8 storeys with 10-13 storey buildings fronting Millwall Dock.
- 4.7. To the west of the application site is Tunberry Quay which is currently under construction for a residential led mixed use development comprising 89 flats with cycle parking, amenity space, landscaping and 321 sq metres of commercial uses.
- 4.8. The application premise is not listed nor does it lie within a Conservation Area.

## The Proposal

- 4.9. The application seeks planning permission for the removal of the redundant roof plant area including a three storey extension to the existing building to form nine new flats with external amenity space, secure cycle parking and refuse storage.
- 4.10. The proposal new structure will be faced with brickwork and it will take cues from the existing architectural language of the building and will terminate with a glazed roof design.
- 4.11. The palette of materials proposed will include stock brick, with large areas of glazing in a similar fenestration design to the existing. The proposal will also seek to replicate the floor plate of the lower floors to enable the architectural integrity of the existing building to be maintained.

## 5. RELEVANT PLANNING HISTORY

Balmoral House, 12 Lanark Square (Application site)

- 5.1. **PA/15/01343:** Application for Prior Approval under Part 3 Class O of the Town and Country Planning (General Permitted Development Order) 2015 for the change of use from offices (Use Class B1a) to residential (Use Class C3) to form 4 flats (3 x 1 bedroom and 1 x 2 bedroom). Approval dated 08/07/2015.
- 5.2. **PA/15/02308:** Minor alteration to an existing external door frame and windows (East elevation). Approval dated 14/10/2015.
- 5.3. **PA/15/02306:** Submission of details pursuant to Condition 2(Cycle Parking) attached to the Prior Approval scheme consented under PA/15/01343 dated 08/07/2015. Approval dated 28/10/2015.
- 5.4. **PA/15/03063:** Submission of details pursuant to condition no. 1(Car-Free) attached to planning permission dated 08/07/2015, ref: PA/15/01343. Approval dated 22/12/2015.
- 5.5. **PA/13/01650:** Prior approval application under Class J of Part 3 of Schedule 2 to the General Permitted Development Order 2013 (as amended) for the Change of Use of independent B1(a) office unit at ground floor level to facilitate the creation of four self-contained residential dwellings (Class C3) providing 1no. Two-bed self-contained flat, 2no. One-bed self-contained flats and 1no. Self-contained studio unit. Approval dated 12/09/2013
- 5.6. **ID/96/00048:** Full planning permission for the conversion of approved office accommodation on upper floors of 12, 13 and 14 Lanark Square to form 65 residential units and continued use of ground floor for A1/A2/A3/B1 uses (ref: T/96/0147). Approval dated 23/09/1996 at 12, 13 and 14 Lanark Square, E14

Aegon House, 13 Lanark Square

- 5.7. **PA/14/03489:** Application for Prior Approval under Part 3 Class J of the Town and Country Planning (General Permitted Development Order) 1995 (as amended) for the change of use from offices (Use Class B1 (a)) to residential (Use Class C3) to provide 4 flats (comprising 2 x 1 bed flats and 2 x 2 bed flats) at ground floor level. Prior Approval 11/02/2015.

- 5.8. **PA/11/03672/R**: Full Planning Permission for the change of use of part ground floor from office (Class B1) to a one bed studio flat (Class C3). Refusal 06/03/2012.
- 5.9. **PA/11/03828/R**: Full planning permission for the change of use of existing ground floor office into a residential dwelling (C3). Refusal 13th March 2012.
- 5.10. **PA/01/01056**: Change of use of part of the ground floor from retail to residential. Withdrawn 4th July 2002.
- 5.11. **T/97/00068**: Conversion and change of use of the roof space at 8th floor level to form 4 self-contained flats (3 x 2 beds and 1 x one bed with ancillary car parking. Approval dated 19/02/1997

Marina Point, 14 Lanark Square (formerly Melrose House)

- 5.12. **PA/14/01820/A1**: Full planning permission for the erection of three additional storeys to building to create nine new residential units (3 x 1 bed, 5 x 2 bed and 1 x 3 bed) plus external amenity space and alterations to the refuse storage area within the basement. Approval dated 29/08/2014.
- 5.13. **PA/14/003512/A1**: Application for Prior Approval under Part 3 Class J of the Town and Country Planning (General Permitted Development Order) 1995 (as amended) for the change of use from offices (Use Class B1 (a)) to residential (Use Class C3) comprising 5 units (3 x 1 bed flats and 2 x 2 bed flats) at ground floor level. Prior Approval dated 12/02/2015.
- 5.14. **PA/12/01043/NC**: Full planning permission for the demolition and re-building of existing roof space to provide four self-contained one bedroom flats. Approval dated 18/06/2012

Turnberry Quay

- 5.15. **PA/12/02923**: Mixed-use development comprising demolition of existing buildings and erection of a building of between 7 and 13 storeys providing 321sqm of commercial floor space (use classes A1-A3, B1, D1 and D2) and 89 residential units (use class C3) plus cycle parking, amenity space, access and landscaping at 1-3 Turnberry Quay and 1-5 Lanark Square, Cross Harbour, London E14. Approval dated 04/09/2013.

## **6. POLICY FRAMEWORK**

- 6.1. The council in determining this application has the following statutory duties to perform, mainly to:
  - Determine the application in accordance with the development plan unless other material planning considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004):
  - To have regard to local finance considerations so far as this is material to the planning application, and to any other material consideration (Section 70(2) Town & Country Planning Act 1990)

6.2. In this regard, the following policies are considered to be relevant to the application:

6.3. **Government Planning Policy/Guidance**

National Planning Policy Framework (NPPF) 2012  
National Planning Policy Guidance (NPPG) 2016  
National Technical Standards (March 2015) – National Described Space Standards

6.4. **Consolidated London Plan (March 2016)**

3.3: Increasing housing supply  
3.4: Optimising housing potential  
3.5: Quality and Design of Housing Developments  
3.9: Mixed and Balanced Communities  
3.8: Housing Choice  
3.11: Affordable Housing targets  
3.12: Negotiating Affordable Housing on Individual Private residential & mixed use schemes  
3.13 Affordable Housing Thresholds  
5.2: Minimising carbon dioxide emissions  
5.3: Sustainable design and construction  
5.12: Flood Risk Management  
5.17: Waste capacity  
6.3: Assessing effects of development on transport capacity  
6.9: Cycling  
6.10: Walking  
6.13: Parking  
5.1: Climate Change mitigation  
5.2: Minimising carbon dioxide emissions  
7.2: An Inclusive Environment  
7.4: Local Character  
7.6: Architecture  
7.15: Reducing Noise and enhancing soundscapes

6.5. **Tower Hamlets Core Strategy 2010**

SP01: Refocusing on our Town Centre  
SP02: Urban Living for Everyone  
SP03(2): Addressing the impacts of noise pollution  
SP04 (5): Creating a Blue and Green Grid  
SP05: Dealing with waste  
SP09: Creating safe and attractive street and spaces  
SP10 & SO23: Creating Distinct and Durable Places  
SP11 & SO24 : Working towards a zero carbon borough  
SP12: Delivering Place Making  
Annexe 9: Cubitt Town Vision

6.6. **Managing Development Document 2013**

DM0: Delivering Sustainable Development  
DM1: Development within the Town Centre Hierarchy  
DM3: Delivering homes  
DM4: Housing standards and amenity space  
DM12: Water spaces  
DM14: Managing Waste

DM20: Supporting a sustainable transport network  
DM22: Parking  
DM23: Streets and The Public Realm  
DM24: Place Sensitive Design  
DM25: Amenity  
DM26: Architecture  
DM29: Achieving a zero carbon borough and addressing climate change  
DM30: Contaminated Land

6.7. **Supplementary Planning Guidance/Documents**

London Plan Housing Standard (March 2016)

6.8. **Tower Hamlets Community Plan Objectives**

A Great Place to Live

A safe and supportive community

**7. CONSULTATION**

7.1. The views of the Directorate of Place are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application

**Canal River Trust**

7.2. No comment. The proposal is some distance from the dock.

**Environmental Health**

Air Quality

7.3. No comments

Noise and Vibration

7.4. No response received

Contaminated Land

7.5. No objections, although there if contamination is found, no further development should take place without the appropriate mitigation measures

**Environment Agency**

7.6. No objection as the proposal

**Transport for London (DLR)**

7.7. No objections subject to the applicant providing a minimum of 16 cycle parking spaces in a secure and accessible location and full details of scaffolding/mast climbers

**Tower Hamlets Highways and Transportation Team**

7.8. No objection to the proposal in principle, although a construction management plan should be secured by condition.

- 7.9. The number of cycle stands proposed is welcome, although a greater proportion of Sheffield stands will be required and this can be secured by a condition
- 7.10. Step free access is required for the refuse storage area.
- 7.11. It is recommended that conditions be attached to secure a permit free development restricting future residents from obtaining permits for on street car parking
- 7.12. It is considered that the bin storage area may be too far from residents' homes and this may need to be reviewed.

### **LBTH Waste Policy and Development**

- 7.13. It is acknowledged that the existing location for waste provision is not ideal; however, the walking distance is within 30 metres of the residential block entrance points and this is considered to be acceptable.
- 7.14. Although the current capacity of the waste provision is below resident's need, this is an existing situation that cannot be controlled through this application.
- 7.15. The applicant is advised to make a separate refuse provision and the detail of this is considered to be acceptable. A to the proposal as the and a condition are recommended for the waste disposal strategy for the site.

### **LBTH Energy Efficiency Team**

- 7.16. The applicant needs to ensure that the development complies with the London Plan (2016) requirements and the local plan policies set out in SO3, SO24 and SP11 which seeks to mitigate climate change and minimise carbon dioxide emissions. The applicant would need to ensure compliance with the 'Energy Hierarchy' :
  - 1) Use less energy (Be Lean)
  - 2) Supply energy efficiently (Be Clean)
  - 3) Use renewable energy (Be Green)
- 7.17. Insufficient details have been provided to assess the sustainability features and energy efficiency measures to be incorporated into the development. The climate change policies require the fullest contribution to be made to mitigation and adaptation to climate change and a condition is required to demonstrate the energy and sustainability strategy for the new proposal.

## **8. LOCAL REPRESENTATIONS**

- 8.1. A total of 386 planning notification letters were sent to nearby properties as detailed on the attached site plan. A further consultation was undertaken on 23/12/2016. The proposal was publicised by way of a site notice and the following responses were received

**No of individual responses:** 60 Objecting: 54 Supporting: 6  
**No of petitions received:** 0

- 8.2. In response to the consultations, a total of 60 letters of representation were received. 54 of the total representations received raised objections against the proposal, whilst six letters of representations were in favour of the scheme.



8.3. A summary of the representations are listed below under the specific headings:

#### Land Use

- Failure to take account of the materially relevant planning permissions which have led to an incremental development on the block and it is considered that the additional units should be subject to affordable housing
- The increase in the density is not matched by infrastructure requirements.
- The proposal will result in the overdevelopment of the site

#### Design

- The visual aesthetics and unity of the three blocks will be lost
- The building will be double in size and as a result it will lose its character

#### Amenity

- The proposed increase in the height and scale of the block will adversely impact on the daylight and sunlight
- Loss of privacy due to overlooking from the new units, specifically the terraced area and impacts on residential amenity
- The Health and Safety risks to existing residents during the construction phase
- The proposal will compound the on-going noise impacts from Turnberry Quay and 49-50 Mill Harbour
- No additional refuse capacity has been provided for the new development.
- That the bin store poses health and safety risks for persons with mobility issues.

#### Highways

- That the cycle parking for the prior approval application at ground floor level has not been implemented
- Step free access should be provided for the refuse bin facility

8.4. Aegon/Balmoral Residents Association have objected to the scheme on the grounds noted above and this is to be considered within the relevant part of this report.

8.5. In addition, various representations were raised which are not considered to be material planning considerations:

- Leaseholders are concerned that the extra flats would impact on their them financially through increased service charges;
- Objectors are concerned that the findings of the structural report are superficial and inconclusive as they were not based on the original construction drawings, which the council officer confirmed had been destroyed in a fire. A more informed structural assessment should be carried out to enable residents to assess what impact the proposal within have on the structural integrity of the flats below and the developer has a duty of care to provide this;
- A Section 20 Notice is due to be served on leaseholders for repair works to the estate (estimated at £2 million) and it is considered that the demand has been triggered by the cost of works for water ingress to the development over a number of years. Residents consider that the demand for repair works arose as a consequence of building out the four ground floor units within the application block;
- That the leaseholders would be prepared to see the redevelopment of the entire Lanark Square properties (including the flats in Balmoral House, Aegon House and Marina Point);

- The developer contacted the other residents and leaseholders because he knew that they are likely to object to the proposal
  - Concerns about the risks of residents being in occupation whilst the airspace above is being extended;
- 8.6. Officers consider that the technical and structural matters (including risk assessments) for the finalised scheme are matters which are addressed once planning permission has been obtained and as part of the building control approvals. Freeholder consent would also be required for any development on the application block.
- 8.7. In respect of the concerns raised regarding the structural implication of the proposal on the foundations of the application block, this is a matter dealt with under the Building Regulations.
- 8.8. In respect of structural impacts of the proposal on leaseholder flats, these are civil matters which are normally addressed through party wall procedures and Building Control
- 8.9. With regard to the concerns raised that leaseholders wish to see their whole estate redeveloped, officers would need to assess any application submitted on its own merit and currently there is no proposal on record for the redevelopment of the entire estate.
- 8.10. With regard to the concerns raised about pre-consultations between residents/leaseholders and developers, this is encouraged as part of the statement for community involvement, however statutory neighbour notifications are still undertaken by the Local Planning Authority.
- 8.11. Officers have assessed the details of the range of objections raised in respect of tenant and landlord matters. The structural issues are matters dealt with by building control and party wall agreements. The objections are not considered to be material planning considerations and cannot be dealt with as part of this report.
- 8.12. Councillor Andrew Wood – A local ward member has objected to the proposal in a personal capacity and the concern relates to the structural impacts of the proposal on the existing structure and concerns as to how residents can be in place when the existing building is being extended. As noted above, this issue is one that is normally the subject of party wall agreements as building control approval. It is considered that the above concerns do not warrant a refusal of the application proposal.

## **9. MATERIAL PLANNING CONSIDERATIONS**

- 9.1. The main planning issues raised by the application that the committee must consider are:
- Principle of Land Use
  - Design
  - Amenity
  - Highways and Transportation
  - Other
  - Financial Considerations
  - Equalities Consideration
  - Human Rights

## **Principle of Land Use**

- 9.2. The National Planning Policy Framework (NPPF 2012) promotes a presumption in favour of sustainable development through the effective use of land driven by a plan led system to ensure the delivery of sustainable, economic, social and environmental benefits. The NPPF seeks to promote the efficient use of land and buildings through maximising the development potential of sites to achieve high densities, mixed -use developments on underutilised sites, specifically to increase the delivery of new housing and support infrastructure. Local planning authorities are encouraged to boost significantly the supply of housing and applications for such proposals should be considered in the context of the presumption in favour of sustainable developments.
- 9.3. Policy 3.3 of the London Plan (MALP 2016) provides support for the increase in the housing supply throughout London, and it sets out a target for this council to deliver a minimum of 39,314 homes between the periods of 2015-2025 and it supports options to achieve this objective through intensification of existing mixed uses or on underutilised buildings.
- 9.4. The proposal was subject to a formal pre-application discussion to establish the principle of converting the redundant plant space measuring 390m<sup>2</sup> plus the erection of a three storey extension to form 9 additional units. The principle of residential intensification on the site is considered to be acceptable given the mixed character of the area and its town centre location within Crossharbour District Centre.
- 9.5. It should be noted that planning permissions have been approved at Aegon House under T/97/00068 for a similar conversion of the plant space. At Marina Point planning permission was approved under PA/14/01820 for a similar conversion of the plant space and three storey extension to form nine flats. This permission on this site has not yet been implemented and the permission will lapse in August 2017.
- 9.6. Whilst the principle of residential intensification is supported in policy terms, the proposal would need to meet the relevant policy considerations in respect of design, amenity, and highway impacts to be considered acceptable overall. The principle of optimising the residential potential of the site accords with Policies 3.3 and 3.4 of the London Plan (MALP 2016), Policy DM3 in the Managing Development Document (2013) and Policy SP02(1c) plus SP02(5a) in the Core Strategy (Adopted 2010) and guidance set out in National Planning Policy Framework (2012).

## Housing

### Affordable Housing

- 9.7. Policy 3.11 of the London Plan (2016) seeks to maximise the affordable housing provision. Part A of Policy 3.12 on planning decisions requires the maximum reasonable amount of affordable housing to be sought when negotiating on individual private residential and mixed use schemes. In undertaking such negotiations, officers are expected to encourage rather than restrain development and individual circumstances of the site including development viability are expected to be taken into account.
- 9.8. Policy SP02 of the Core Strategy (2010) seeks to ensure that new developments optimise the use of land and that new housing including higher densities are encouraged in sustainable locations with proximity to the nearby town centres. The policy sets an expectation for 50% of additional homes within the period of 2025 should

be affordable, subject to viability, the availability of public subsidy and the individual circumstances of the site.

- 9.9. Policy DM3 of the Managing Development Document seeks to ensure maximise the delivery of affordable housing in accordance with the Council's tenure split (70% social/Affordable Rent and 30% Intermediate) as reinforced in the Core Strategy. Policy DM3 (4) which is may have some relevance to this application states Affordable housing will be calculated;
- a) by using habitable rooms as primary measure to allow for the most suitable mix of units: and
  - b) based on the total housing existing or permitted as part of a development, where a scheme proposes additional housing.
- 9.10. Objections have been received on the grounds that the total additional units being created by the developer would trigger an affordable housing requirement, because it is a phased development and reference has been made to a 31st July 2015 High Court decision which ruled against exempting small sites from affordable housing.
- 9.11. The site history illustrates that 4 units (3 x 1 beds and 1 x 2 beds) were created at ground floor level under PA/15/01343. The proposal has been implemented. The application proposal is for a further 9 units (13 in total). Officers have considered the merit of the objection and whether the policy trigger for affordable housing would be applicable if the application proposal was approved. Whilst it is acknowledged that there is an unmet demand for affordable housing within the Borough; government guidance and case law require assessments for such provisions (specifically on smaller sites) to be done on a case by case basis and in a way which encourages rather than stifles development.
- 9.12. In assessing whether or not affordable housing would be applicable, officers have assessed the sequence of events relating to the application submissions for the ground floor use and the current scheme and assessed that it is not appropriate to view the two applications as part of the same phased development (notwithstanding the timing of their submissions or the ownership of the sites). The ground floor units were approved as part of a Prior Approval scheme (which operates as deemed permission for the conversion of office premises to residential uses) and new units arising from such schemes are not subject to affordable housing contributions. Officers have also separately assessed whether the proposed units on their own would potentially trigger the ten unit threshold. In this instance, officers do not consider that the residents' objections are justified and the affordable housing trigger is not applicable to this scheme.

#### Housing Mix

- 9.13. Policy 3.8 of the London Plan seeks to ensure that new developments offer a range of housing choice, in terms of the mix of unit types and sizes.
- 9.14. Policy SP02 of the Tower Hamlets Core Strategy (2010) requires a mix of housing types and it establishes an overall target of 30% of all housing to be suitable for families (3+ bedrooms) for units which are for private market.
- 9.15. Policy DM3 of the Managing Development Document (2013) sets out a target mix as shown in Table 1 below.

**Table 1**

Tenure	1bed (%)	2 bed (%)	3 bed (%)	4+ bed (%)
MD DPD	50	30		20
Proposal	44.5%	33.3 %		22.2%

- 9.16. The application proposal seeks to provide 9 private market flats with the dwelling mix consisting of 4 x 1 beds, 3 x 2 beds and 2 x 3 beds. The proposed units will be incorporated within the new extension which will continue the lift and stair core arrangements and the new units will all benefit from private amenity space.
- 9.17. Having assessed the proposal, it is considered that the proposed dwelling mix would be roughly compliant with policy. A good range of housing sizes including two family sized units are being proposed and this will go some way to meeting the identified need for housing in this locality, whilst contributing to the objective of providing mix and balanced community in accordance with the aspirations of both the London Plan and local plan policies.

#### Residential Space Standards

- 9.18. Policy 3.5 of the London Plan seeks to secure new housing of the highest standards that enhances the quality of local places and takes into account the physical context, local character, tenure and the relationships with the local context. The boroughs to should this end seek to new homes are adequately sized, with convenient and efficient room layouts which are functional, fit for purpose and meet the changing needs of the occupant over their lifetime. Securing new housing of the highest quality (internally and externally) that protects and enhance residential neighbourhoods are consisted to be key priorities in accessing the acceptability of new developments.
- 9.19. Policy DM4 of the Managing Development Document seeks to ensure that new homes are built with efficient layouts in line with the London Plan aspirations.
- 9.20. The Government's published Technical Housing Standard –Nationally described space standards seeks to reinforce the above as it sets out requirements for Gross Internal Floors pace at a defined level of occupancy, requirements for floor areas, storage and minimum floor to ceiling heights within new developments.

**Table 2 Gross Internal Floor Areas for the proposed dwellings**

Flat No.	Flat type	Size Required (sq. m)	Size Proposed (sq. m)	Pass/Fail
4.01	3 bed/4 persons	74	77	Pass
4.02	1 bed/ 2 persons	50	50	Pass
4.03	1 bed/2 persons	50	62.2	Pass
4.04	1 bed/2 persons	50	50.3	Pass
4.05	1 bed/2 persons	50	50	Pass
5.01	3 bed/5 persons	86	86.1	Pass
5.02	2 bed/3 persons	61	65.9	Pass
6.01	2 bed/4 persons	70	77	Pass
6.02	2 bed/3 persons	61	66.3	Pass

- 9.21. Table 2 above illustrates that the proposed units have been designed with acceptable internal floor arrangement overall and the internal space arrangement including circulation space are adequate in meeting policy requirements.

#### Inclusive Design

- 9.22. Policy 3.8 of the London Plan (MALP 2016) seeks to ensure that the aspirations to offer housing choice, is balanced against the diverse needs (including the changing demographic structure) of the borough's residents. Policy 3.8 (c) seeks to ensure that ninety percent of new housing meets Building Regulation Requirements M4 (2) 'accessible and adaptable units'. Policy 3.8 (d) seeks to ensure that ten percent of the new housing meets Building Regulation Requirements M4 (3) for Wheelchair User dwellings.
- 9.23. Policy SP02 of the Core Strategy (2010) reinforces the need for new housing to be designed in line with the 'Life Time Home Design criteria' and GLA's Wheelchair Housing Best Practice Guidance (as amended).
- 9.24. The applicant's drawings indicate that the new development is capable of meeting the above objective. The 10% requirement for wheelchair adaptable units (or readily adaptable) can be secured by a planning condition. Subject to this, it is considered that the proposal would accord with the objectives in Policy 3.8 in the London Plan (MALP 2016) and Policy SP02 of the Core Strategy (2010).

#### External Amenity space

- 9.25. Policies 3.5 of the London Plan (MALP 2016) and DM4 of the Managing Development Document (2013) states that a minimum of 5 sq. of private outdoor space should be provided for residential dwellings consisting of 1-2 persons and for larger dwellings, there is a requirement for 1 sq. metre in respect of each additional occupant. Balconies are expected to be designed with a minimum of 1500mm width.

**Table 3**

Flat No.	Flat Size	Amenity space required	Amenity space proposed	Pass/Fail
4.01	3 bed/4 persons	7 m2	7.0 m2	Pass
4.02	1 bed/ 2 persons	5 m2	5.9 m2	Pass
4.03	1 bed/2 persons	5 m2	None	Fail
4.04	1 bed/2 persons	5m2	5 m2	Pass
4.05	1 bed/2 persons	5 m2	6 m2	Pass
5.01	3 bed/5 persons	10 m2	38.0 m2	Pass
5.02	2 bed/3 persons	6 m2	74.4 m2	Pass
6.01	2 bed/3 persons	6 m2	6 m2	Pass
6.02	2 bed/3 persons	6 m2	6 m2	Pass

- 9.26. Table 3 illustrates that three out of four flats on the 4th floor will have access to private amenity space in the form of an inset balconies. All flats on the 6th floor will have access to private amenity space in the form of in set balconies. The two flats at fifth floor level have been designed with roof terraces. All of the external amenity spaces provided meet or exceed the minimum policy requirements.

- 9.27. Overall, it is considered that eight out of nine of the flats will have satisfactory amenity space provision and this represents a significant improvement over and above the existing situation, where many flats within the three blocks do not have any external amenity space. However, the affected unit is a one bed flat, likely to be occupied by young couples without families and as such, and the lack of this facility does not undermine the ability of the unit to provide high quality accommodation.
- 9.28. Objections have been raised on grounds that the proposal does not provide communal amenity space. Officers do not consider this to be a requirement for a small development below ten units.

### Density

- 9.29. The NPPF identifies as a core planning principle the need to encourage the effective use of land through re-using previously developed or underutilised sites. Policy 3.4 of the London Plan seeks to optimise housing delivery through residential intensification and redeveloping underutilised sites. In this regard, Policy SP02 of the Tower Hamlets Core Strategy (2010) seeks to optimise the use of land for housing whilst ensuring that the resulting density levels corresponds to public transport accessibility levels and the proximity to, and hierarchy of town centres. Table 3.2 of the London Plan sets out a density matrix which seeks to guide the assessment of a scheme, based on the setting of the site and Public Transport Accessibility (PTAL).
- 9.30. The application site is good public transport accessibility (PTAL4). For urban locations with PTAL 4, the London Plan (Table 3A.2) suggests an appropriate density of between 200 – 750 habitable rooms per hectare (HR/HA) for urban settings. The application site currently has 15 units and it will have an overall density of 593 habitable rooms per hectare. The proposed density is considered to be acceptable in this regard.
- 9.31. Objections were received on the ground that the proposal will increase the overall population yield as well as child yield and this will put a strain on the local infrastructure such as doctors and schools, which are already oversubscribed. The objectors are concerned that s.106 contributions are not being levied for this proposal. Officers have considered the above points and whilst there will be an increase in population yield, the proposal is not considered to be a major development that would require s106 contributions. Furthermore, infrastructure provisions are funded from CIL payments.
- 9.32. The London Plan makes it clear that the density of a development is considered to be a guide and officers consider that the increase in density would be acceptable compatible with the local context and public transport accessibility

### **Design**

- 9.33. Chapter 7 of the NPPF focuses on ensuring that the principle of good design is embraced within the built environment. “Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute to making places better for people”
- 9.34. Good design is also central to the objectives of the London Plan (MALP 2016) as it places emphasis on robust designs in new developments, which respond to the local context. With regard to Policy 7.4 of the London Plan (MALP 2016), this places emphasis on optimising the potential of sites and buildings whilst responding to the local character, pattern and grain of existing spaces and streets. Policy 7.6 of the London Plan places emphasis of developments being of the highest architectural

quality and that it is response to the local context, enhanced public realm, high quality materials where developments are seeking to optimise sites.

- 9.35. In respect of Policy SP10 of the Core Strategy (2010) this seeks to ensure that buildings and neighbourhoods encourage good design principles to ensure that new buildings, spaces and places are of high quality, sustainable and attractive and well integrated into the surroundings
- 9.36. Policy DM24 of the Managing Development Document (2013) requires development to be of high quality in terms of employing good principles of urban design, reinforcing the need to encourage developments which enhances the local character and distinctiveness of an area and is appropriate in terms of high quality materials and finishes.
- 9.37. The existing building is a four storeys building and it forms a cluster with Aegon House (9 storeys) to the east of the block and the four storey Marina Point (to the south of the site). Although Marina Point is currently four storeys in height, there is an extant planning permission to increase the height of the block by three more storeys to create nine additional flats which was approved by the council in 2014 under PA/14/01820.
- 9.38. The proposed extension will be of a modern design mirroring the existing built form in terms of its fenestration design. The applicant intends to raise the shoulder of the building in a similar architectural language to lower floors and the roof level will terminate in the form of a modern glazed box. The Council's Urban Design officer has assessed the proposal in terms of its massing, bulk and scale including height of the built form will be appropriate to the site context. The objections raised, that the proposed design of the application building will be out of context with the surroundings are not justified. It is considered that the roof form will be complementary addition to the host building and it will not detract from the character and appearance of the area. A condition is recommended to secure full details of the facing materials for the scheme and to ensure that they are of a high quality finish

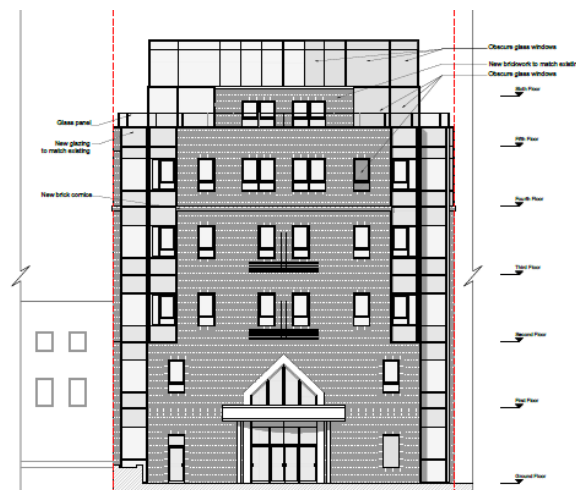


Figure 2: Front Elevation of the proposed block





Figure 3: Rear Elevation of the proposed block

- 9.39. Buildings in the surrounding area are of a mix of scale and architectural types, but mostly flatted buildings. The first phase of Baltimore Wharf to the north of the site is between 8 and 13 storeys high and Turnberry Quay to the west of the site seven and thirteen storeys. Within the three immediate clusters, Aegon House is 9 storeys and Marina Point is currently 4 storeys, but if the planning permission were implemented, this will be 7 storeys. The application building is currently 4 storeys and the proposal will result in a seven storey building. It is considered that the height of the existing building currently creates a contrast with the surrounding taller buildings and it is considered that the overall character of the building will be improved by the new development.
- 9.40. Objections have been received on grounds that the height and massing of the resulting building will significantly alter its character. As noted the council's Urban Design officer has assessed the proposal and consider that it is sympathetic to the adjoining. The massing, scale and height is also considered to be appropriate to the site and context.
- 9.41. Subject to a condition to secure a high quality materials and finishes, it is considered that the proposal would accord with Policy SP10 in the Adopted Core Strategy (2010) and Policies DM23, DM24 and DM26 in the Managing Development Document (2013), which seeks to ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are of high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds.

### Amenity

- 9.42. A core principle of the NPPF is to “always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings. Policy 7.6 of the London Plan (MALP 2016) states that the design of new buildings “should not cause unacceptable harm to the amenity of surrounding land and buildings, particularly residential buildings”.
- 9.43. Policy SP10 of the adopted Core Strategy (2010) and Policy DM25 of the adopted Managing Development Document (2013) require developments to ensure that it does not result in the loss of amenity, specifically loss of privacy, unreasonable overlooking, or an increase in a sense of enclosure or loss of outlook to adjoining properties, as well as protect the amenity of the surrounding public realm.

9.44. The application site is located within an urban location surrounded by a mix of residential and commercial uses. Given the current site context and the relationship of the three adjoining blocks, it is considered that the bulk, mass and scale including height of the proposal may give rise to potential impacts on the amenity of residents through daylight/sunlight loss, overlooking, privacy, outlook, noise, and disturbance. In view of the objections received on these grounds, the degree of these impacts would need to be assessed.

Daylight and Sunlight

9.45. The assessment for Daylight/sunlight impacts is based on the BRE guide ‘Site Layout Planning for Daylight and Sunlight (2011). Daylight conditions within new homes are normally assessed in terms of the Average Daylight Factor (ADF). British Standard 8206 recommends the following minimum ADF values for new residential dwellings:

- >2% for kitchens;
- >1.5% for living rooms; and
- >1% for bedrooms

9.46. The applicant has submitted a Daylight/Sunlight Report and this illustrates that the surrounding properties will all benefit from satisfactory daylight/sunlight with the proposal in place. It is noted that the daylight to the proposed dwelling (flat 4.03) will experience a lower level of daylight, as the quality of the lighting will be impacted upon by the close relationship of the proposal to Aegon House and the need for obscure glazing to mitigate privacy concerns.

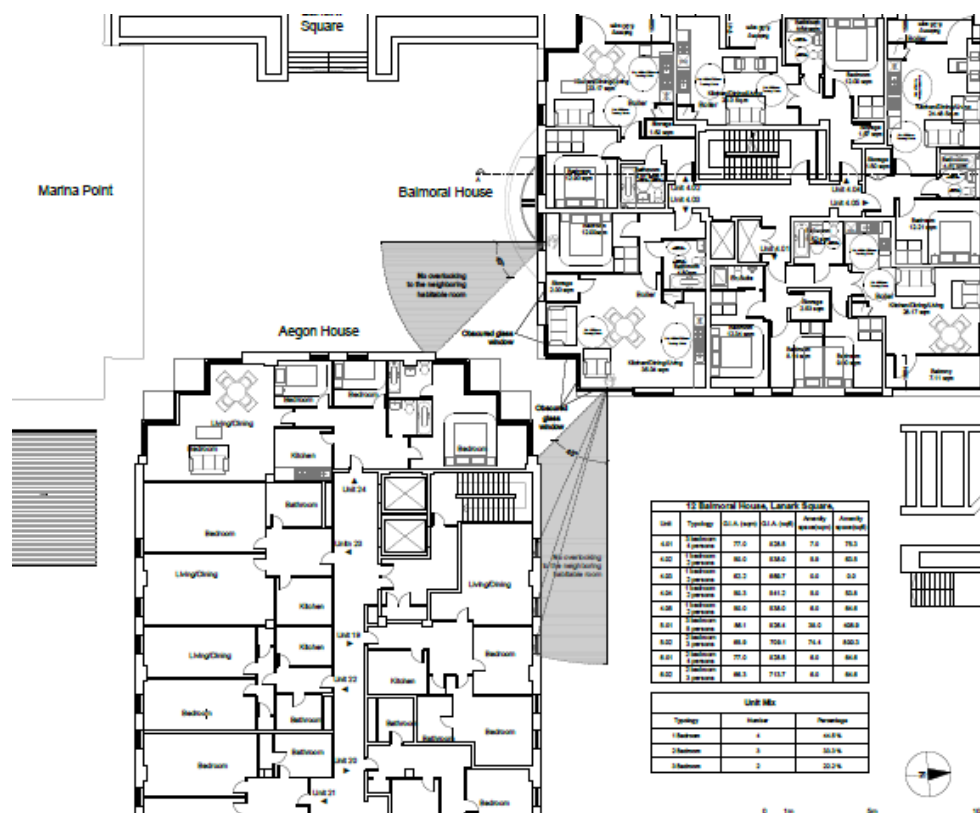


Figure 4: Relationship of the application building to Aegon House at 4<sup>th</sup> floor level

### Outlook

- 9.47. Objectors have raised a number of points that are relevant to consideration namely that the proposal will impact on the outlook and have an overbearing impact on residents at Aegon House. The 4th floor of the application building has been designed in line with the footprint of the lower floors, whilst the 5th and 6th floors will be stepped away from the existing building edge.
- 9.48. Given the height and stepped building form of the upper two storeys, this will increase the separating distance above the 4th floors to 6.2 metres. It is accepted that the outlook issues are a challenge on this site, and it is considered that this arises from the original design of the former office blocks. On balance, officers do not consider that the proposal poses any unacceptable restrictions on the outlook to accommodation within Aegon House, given the close knit arrangements of the blocks. It is noted that the site is located within an urban context and given the existing relationship between the application site and its neighbour, officers do not consider that the living conditions of existing residents will be unduly harmed by the proposal and that the sense of enclosure would not be materially worse than the existing situation.

### Overlooking and Privacy

- 9.49. Policy DM25 of the Managing Development Document requires new developments to be designed to ensure that there is sufficient privacy and that they do not lead to an unreasonable level of overlooking between habitable rooms of adjacent residential properties and their private amenity spaces. The degree of overlooking depends on the distance and the horizontal and vertical angles of view.
- 9.50. The separating distance between the two closest buildings is 18 metres to Marina House and Aegon House at its closest pinch points is approximately 3.2 metres. Due to the limited separating distances between the two existing blocks, this is likely to have potential impacts on the privacy of the adjoining habitable rooms as shown in figure 4 above. To mitigate against the impact, the applicant is seeking to provide obscure glazing to habitable areas specifically at 4th floor level (Flat 4.03) to minimise any incidence of overlooking to and from Aegon House. The provision of obscure glazing at these strategic points is considered to be acceptable and will be subject to condition.
- 9.51. It is noted that the existing relationship on the lower floors of the building have been mitigated in the same way. The application proposal has been designed to address this issue and at fourth floor level, the south elevation and east facing pinch points will have obscured glazing to mitigate the privacy concerns. At fifth floor level, there is some potential for overlooking from the terrace areas, however, it is noted that the windows will be significantly set back at this level and the terrace area on the southern elevation will not be accessible. There is some potential downward viewing to the habitable rooms of lower floors, however, privacy screens will be provided and any direct overlooking will be minimised despite the height differences. Officers consider that with the necessary measures for privacy screens and obscure glazing secured by conditions will reduce the level of potential overlooking between the blocks to an acceptable level.

### Sense of enclosure

- 9.52. The proposal seeks to maintain the footprint and design of the lower floors at fourth floor level and as a result, the interfacing windows on the proposed fourth floor has been designed to mitigate this through the provision of obscure glazing. On the fifth

and sixth floors, the proposed floors are significantly set back from the building edge and as such this will improve the outlook situation for the blocks on other floors. Officers have assessed the proposal and do not consider that there will be any significant increases in the sense of enclosure, over and above the existing situation.

- 9.53. Given the urban context of the site, it is considered that the proposal will not result in any unduly detrimental impacts to the adjoining properties with regard to daylight, sun lighting, overshadowing, privacy and outlook or noise. The proposal will be subject to conditions to minimise some of the amenity impacts. Subject to conditions to restrict outlook through the provision of obscure glazing and privacy screen, officers consider that the proposal would accord with Policy SP10 of Tower Hamlets Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013) as well as the NPPF.

#### Noise, disturbance and Pollution

- 9.54. Policy 7.15 of the London Plan (MALP 2016) and Policy SP10 of the Core Strategy (2010) as well as Policy DM25 of the MDD seeks to ensure that new developments reduce noise impacts from noise sensitive development including road and rail noise.
- 9.55. As set out in the consultation section of this report, objections have been raised by local residents, specifically in Aegon House and Marina Point with respect to noise disturbance arising from the proposal during the construction phase. Whilst the proposed development itself is not incompatible with the surround land use, the noise impacts during the construction phase has the potential to cause adverse impacts on residential amenity. Given the nature of the proposal, officers envisage that planning conditions can help to mitigate the noise impacts and the associated disruption for residents.
- 9.56. In this regard, it is recommended that a condition be imposed to secure a construction management plan, which will mitigate noise and dust emissions from demolition and construction works. It is also considered that the hours of construction can also be mitigated to ensure that the amenity of residents is protected.

#### **Highways and Transportation**

##### Car Parking

- 9.57. The NPPF emphasises the role that transport policies play in achieving sustainable development and delivering wider sustainability and public health objectives. It expects the transport demand generated by new developments to be within the capacity of the existing highway network. It also seeks to ensure that new developments prioritise sustainable transport modes such as walking and cycling.
- 9.58. Policy 6.13 of the London Plan (MALP 2016) seeks to encourage 'car free' developments in areas with good access to public transport, whilst still making provision for disabled parking requirements. This policy also seeks to ensure that 20% of parking spaces (both active and passive) provide an electrical charging point to encourage the uptake of electric vehicles.
- 9.59. Policy SP09 (4) of the Council's adopted Core Strategy (2010) and Policy DM22 (2) of the Council's adopted Managing Development Document (2013) require developments located in areas of good public transport accessibility to limit car use by restricting car parking provisions. .

- 9.60. The Lanark Square Estate includes a large basement car park, below the three residential blocks which accommodates 104 cars. 57 of the car parking spaces within the basement were allocated as part of the original planning permission (T/96/0147) when the three office blocks were converted to 65 flats. The remaining car park facilities were allocated to the commercial uses within the development. There are 13 car parking spaces within the upper ground level courtyard within the southern part of the site which has been allocated for residents as well as the commercial operators.
- 9.61. The application does not propose any car parking, however, the application proposal will result in the loss of two car parking spaces within the basement car park to accommodate cycle parking for the new units. Within the ground floor courtyard area, two parking spaces will be required to accommodate the refuse bin store and a disabled parking space. The losses of the parking spaces have been considered and no objection was raised by the Council's Highway and Transportation Team.
- 9.62. Objections have been received on grounds that the scheme does not propose any parking and this will lead to traffic congestion in the area. The Council's Highway and Transportation Team have reviewed the proposal and recommended a section 106 agreement to ensure future occupiers do not apply for on street car parking permits. A condition is also recommended to secure one off street parking facility for blue badge holders. Subject to these conditions it is considered that the proposal would accord with Policy 6.13 in the London Plan; Policy SP09 in the Core Strategy and Policy DM22 in the Managing Development Plan (2013).

#### Cycle Parking

- 9.63. Policy 6.13 of the London Plan (MALP 2016) requires developments to include adequate provision for safe, secure and accessible cycle parking facilities and as set out in Table 6.3 of the London Plan, this requires 1 space per studio / 1 bed unit and 2 spaces per all other dwellings. which triggers a requirement for 14 cycle spaces.
- 9.64. Policy SP09 of the Core Strategy (2010) and Policy DM22 of the Managing Development Document (2013) requires transport demand for new developments to reduce the demand for travel by car and for adequate cycle parking to be provided.
- 9.65. A total of 14 cycle parking spaces are required for the proposed development and the developer has confirmed that 17 cycle parking spaces can be provided using a combination of Sheffield and vertical bike stands in the basement area to encourage more sustainable modes of transport. The number of bike stands/spaces proposal is acceptable and meets the policy requirements, however, further details have been requested which can be addressed by a condition.
- 9.66. The Council Highway and Transportation Team and Transport for London (TFL) were consulted on the proposal and both have recommended that the proposal provide a minimum of 16 cycle parking spaces. The Council's Highway Team have indicated that a greater proportion of Sheffield bike stands should be provided. The details for cycle parking will need to be secured by a condition.

#### Construction Traffic

- 9.67. The application was accompanied by a Construction Management Plan and this provides some preliminary information on the construction management. The Council's Highway and Transportation Team have reviewed the submission and recommended a condition to secure a Construction Management Plan. Transport For London (TFL) was consulted and due to their concerns about mitigating potential risks to the DLR

operations, they have recommended a condition in respect of any scaffolding proposed (to include a risk assessment and method statement) and this will be carried forward into the planning permission, should the application be approved.

- 9.68. Subject to conditions, it is considered that the transport and servicing arrangements for the site will be acceptable. The application proposal will be car free and will have adequate cycle parking which should encourage more sustainable modes of travel and as such, it is considered that the proposal will have an acceptable impact on the local highway network which accords with Policies 6.1 and 6.3 in the London Plan, Policy SP09 in the Core Strategy (2010), and Policies DM22 in the Managing Development Document (2013) and guidance within the NPPF.

#### Refuse

- 9.69. Policy 5.17 of the London Plan (2016) reinforces that all development proposals should plan for waste management, and should minimise waste and achieve high re-use and recycling performance as part of the wider strategy for the development.
- 9.70. Policy SP05 (1) of the Council's adopted Core Strategy (2010) emphasizes the need for developments to implement the waste management hierarchy of reduce, reuse and recycle by ensuring that building users manage their waste effectively
- 9.71. Policy DM14(2) of the Managing Development Document (2013) requires developments to illustrate how it will provide appropriate storage facilities for residual waste and recycling as a component element to implement the waste management hierarchy of reduce, reuse and recycle.
- 9.72. The development currently benefits from an existing bin store at ground level within the south eastern corner of the site. In order to accommodate the six new units proposed, the applicant proposed an additional 2 x refuse bins and 1 x recycling container within the existing bin store.
- 9.73. Objections were received on the grounds that the existing waste provision for the development is inadequate, inaccessible for disabled persons and too far from residents' homes. The Council's Waste Management Team has assessed the concerns and acknowledges that there is a shortfall in the existing waste provision for the development; however the shortfall in the capacity of the existing development would need to be addressed by the freeholder. With regard to the walking distance to the refuse store, this has been assessed as being within the acceptable distance of 30 metres. With regard to the access issues for disabled residents, it is understood that the borough operates a special refuse collection for registered disabled persons.
- 9.74. Given the capacity issues identified, the applicant has revised the proposal to incorporate a new waste facility within an adjacent car parking bay. The proposed refuse store will be a single storey, of a brick construction. It will benefit from level access and will be designed to accommodate facilities for general waste as well as recycling which is supported. The bin store will be within 30 metres walking distance from the application block and this is considered to be acceptable.
- 9.75. The Council's Waste Team has assessed the overall refuse strategy for the proposed development and considers that the siting and size of the new bin store are acceptable, as it is conveniently located adjacent to the existing one and within an acceptable pulling distance for refuse collection and to the application block. The proposal is of a suitable size and has been designed in accordance with the council's waste management hierarchy which seeks to reduce, re-use and recycle waste. It is

considered that the materials and finishes can be addressed by a condition. In regard to the matters regarding the shortfall in the existing waste capacity, this is a tenant/landlord matter to be addressed by the freeholder.

- 9.76. In respect of the objection regarding the walking distance to the existing and proposed bin store, officers accept that this may not be ideal for all the occupants; however, the walking distance has been assessed as being acceptable by the waste management team.

#### Construction Waste

- 9.77. In terms of construction waste, it is envisaged that this aspect can be addressed in a site waste management plan (as part of a construction management plan). It is recommended that this be secured by condition to ensure that the building materials are recycled where appropriate and properly disposed of.
- 9.78. Overall, the waste storage facilities for the site and during construction have been assessed and subject to conditions, it is considered that the proposal would accord with Policy 5.16 of the London Plan, Policy SP05 and Policy DM14 of the Managing Development Document and that it is to be maintained for the lifetime of the development.

#### **Other**

#### Energy and Sustainability

- 9.79. Policies 5.2, 5.3 and 5.7 of the London Plan (MALP 2016) seek to ensure that development proposals make the fullest contribution to minimising carbon dioxide emissions, demonstrate that sustainable design standards are integral to the proposal and integrate on-site renewable energy generation, where feasible.
- 9.80. The Council's Core Strategy SP11 seeks to ensure that carbon emissions are reduced in non-domestic buildings by supporting non-domestic developments that promote the use of renewable energy technologies and reducing the carbon emissions of all public buildings in the Borough.
- 9.81. The Council's Managing Development Document policy DM29 states that all development will be required to be accompanied by an Energy Assessment to demonstrate its compliance with the Borough's carbon reduction targets and will also need to demonstrate that climate change mitigation measures are maximised within development.
- 9.82. The Council's Energy Efficiency Officer has reviewed the proposal and has commented that he noted that the applicant has not submitted details regarding the noted that the applicant has not provided details to assess the sustainability features and energy efficiency measures within the proposal. The climate change policies require the fullest contribution to be made to mitigation and adaptation to climate change and therefore it is recommended that a condition be attached to secure the submission and agreement of the energy and sustainability strategy for the development prior to commencement of works on site.

### Contaminated Land

- 9.83. In accordance with the requirements of the NPPF and policy DM30 of the Managing Development Document (2013), there is a requirement to undertake appropriate remediation where development is sited on contaminated land. The council's Land contaminated land officer has assessed the proposal and whilst no objection has been raised, it is noted that a condition should be applied to the planning permission as a precaution against the likelihood of underlying contamination being found. Subject to this the proposal would be acceptable.

### Flood Risk

- 9.84. The NPPF, Policy 5.12 in the London Plan, and Policy SP04 in the Core Strategy and Policy DM12 in the Managing Development Document (2013) relate to the need to consider flood risks at all stages of the planning process.
- 9.85. The site is located within Flood Zone 3a, at risk of flooding from the tidal River Thames. The Environment Agency (EA) was consulted with regards to the application although no objection was raised. The SFRA confirms that the site is defended to a 1 in 1000 year standard by the River Thames tidal defences and as such Environment Agency has not raised any objections to the proposal.
- 9.86. Given the nature of the scheme, the proposal does not result in any adverse increase in the flood potential of the site and this accords with Policy SP04 of the Core Strategy and DM12 of the Adopted Managing Development Document (2013), which seeks to minimise the impact of flooding in new proposals.

### **Financial Considerations**

- 9.87. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that the authority shall have regarded to:
- The provisions of the development plan, so far as material to the application;
  - Any local finance considerations, so far as material to the application; and,
  - Any other material consideration.
- 9.88. Section 70(4) defines "local finance consideration" as:
- A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
  - Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.
- 9.89. In this case, the proposed development would be liable for Tower Hamlets Community Infrastructure Levy.
- 9.90. The application proposal will be liable to Tower Hamlets CIL.
- 9.91. The application proposal will attract DCLG's New Homes Bonus.



## Human Rights Considerations

- 9.92. In determining this application, the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application, the following are particularly highlighted to Members:-
- 9.93. Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights (“ECHR”). Certain parts of the “Convention” here meaning the ECHR, are incorporated into English Law under the Human Rights Act 1998. Various Conventions rights are likely to be relevant to the development proposal including:
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the law in the determination of a person’s civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
  - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public’s interest (Convention Article 8); and
  - Peaceful enjoyment of possession (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that “regard must be had to the fair balance that has to be struck between competing interests of the individual and of the community as a whole”
- 9.94. With regard to Article 6 of the European Convention on Human Rights (“ECHR”), the report illustrates that officers have proactively engaged with the applicant during pre-application discussions and also during the planning process. Neighbour consultations have been undertaken and this has provided the applicant and other third parties (including residents and objectors) with the opportunity to make representations on the proposal. Members must therefore give full consideration to the comments received in accordance with the rights afforded to the applicant, objectors and other third parties who have made representations to Council as local planning authority.
- 9.95. With regard to Article 1, Protocol 1 (Rights to peaceful enjoyment of possessions and Protection of property) and Article 8 (rights to respect for private and family life, home and correspondence) of the European Convention on Human Right, officers have taken account of the relevant material planning considerations as well as the relevant development plan policies and government guidance, in assessing the merits of the application proposal. Whilst it is acknowledged that some of the rights conferred by the articles above may be interfered with, Members will need to ensure that in arriving at a decision on the application a fair balance has been struck between the rights of the individual property owners and the rights of the wider community and that any such interference is in accordance with the Law and justified by being in the public interest and the merits of the planning proposal.
- 9.96. In this regard, Members would need to satisfy themselves that the measures put into place to safeguard the amenity of residents in this case (such as the conditions to mitigate noise and disturbance or to mitigate overlooking including any other condition/informative required by the Director of Place are acceptable and that any potential interference with the Convention Rights are legitimate and justified and that it

strikes the appropriate balance between the rights of the individual and the wider public interests.

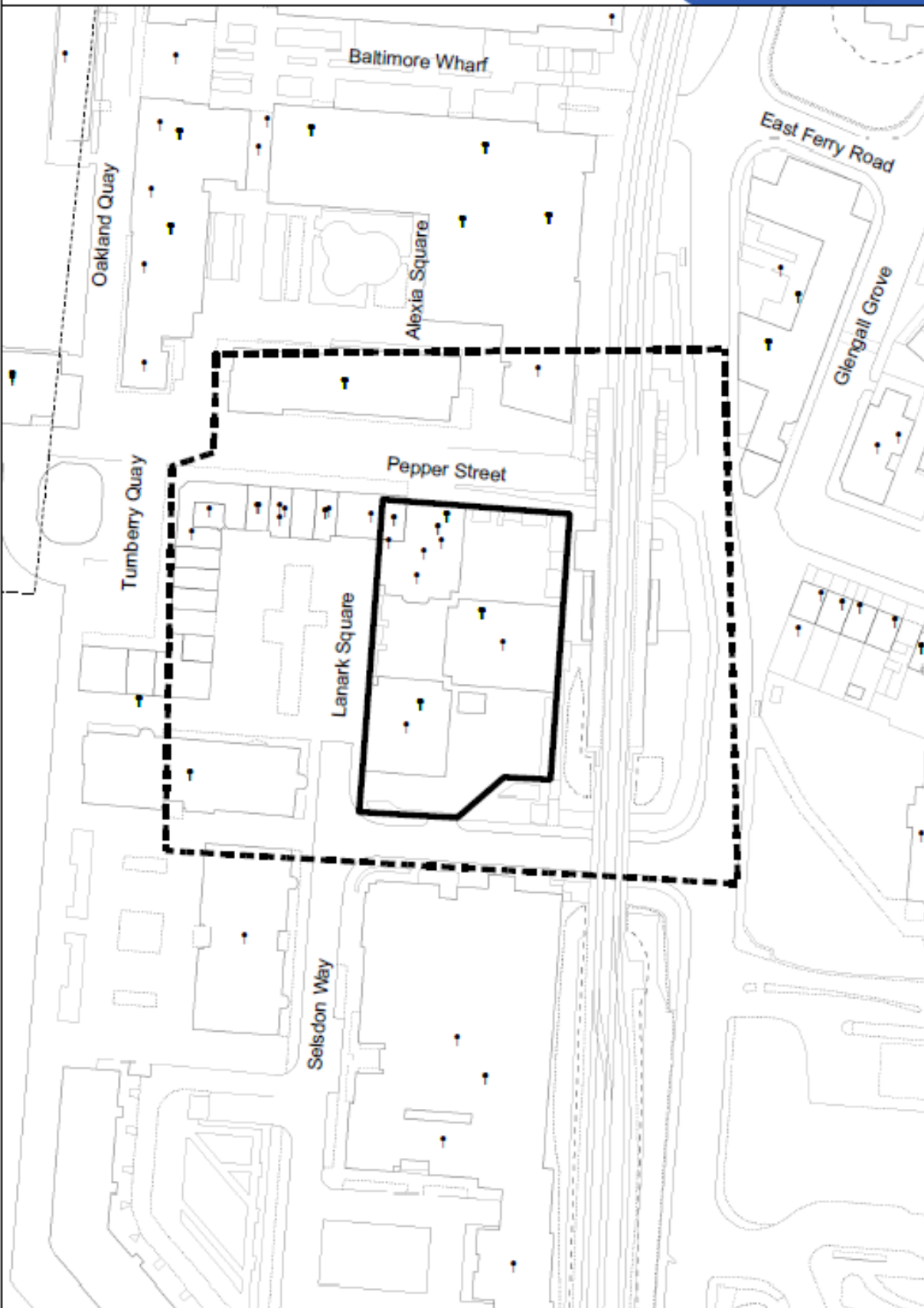
- 9.97. Both public and private interests are to be taken into account in the exercise of the Council's planning authority's power and duties. Any interference with a Convention right must be necessary and proportionate.
- 9.98. As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.
- 9.99. In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified.


### **Equalities**

- 9.100. The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
  - b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - c) Foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 9.101. The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 9.102. The proposed development allows for an inclusive and accessible development as the proposal will include both wheelchair/adaptable units, the proposal will be built to lifetime homes standards and disabled parking is to be secured by condition.
- 9.103. With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation, it is considered that the equality considerations have been addressed.


## **10. CONCLUSION**

- 10.1. All other relevant policies and considerations have been taken into account and it is considered that planning permission should be GRANTED for the reasons set out in the Executive Summary and Material Planning Considerations as set out in the Planning Considerations sections as set out in the RECOMMENDATION at the beginning of this report.





 Planning Application Site Boundary

 Locally Listed Buildings

 Land Parcel Address



 Consultation Area

 Statutory Listed Buildings

0 40 m



This page is intentionally left blank

# Agenda Item 5

<b>Committee:</b> Development	<b>Date:</b> 10 May 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director Place		<b>Title:</b> Planning Applications for Decision	
<b>Originating Officer:</b> Owen Whalley		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

- 1.1 In this part of the agenda are reports on planning applications for determination by the Committee. Although the reports are ordered by application number, the Chair may reorder the agenda on the night. If you wish to be present for a particular application you need to be at the meeting from the beginning.
- 1.2 The following information and advice applies to all those reports.

## 2. FURTHER INFORMATION

- 2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda are available for inspection at the meeting.
- 2.2 Members are informed that any further letters of representation, petitions or other matters received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in an Addendum Update Report.

## 3. ADVICE OF HEAD OF LEGAL SERVICES

- 3.1 The relevant policy framework against which the Committee is required to consider planning applications comprises the Development Plan and other material policy documents. The Development Plan is:
  - the London Plan 2011
  - the Tower Hamlets Core Strategy Development Plan Document 2025 adopted September 2010
  - the Managing Development Document adopted April 2013
- 3.2 Other material policy documents include the Council's Community Plan, supplementary planning documents, government planning policy set out in the National Planning Policy Statement and planning guidance notes and circulars.
- 3.3 Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the

---

**LOCAL GOVERNMENT ACT 2000 (Section 97)**  
**LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 7**

Brief Description of background papers:	Tick if copy supplied for register:	Name and telephone no. of holder:
See Individual reports	✓	See Individual reports

---

Development Plan unless material planning considerations support a different decision being taken.

- 3.4 Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.
- 3.5 Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.
- 3.6 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.7 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 3.8 In accordance with Article 31 of the Development Management Procedure Order 2010, Members are invited to agree the recommendations set out in the reports, which have been made on the basis of the analysis of the scheme set out in each report. This analysis has been undertaken on the balance of the policies and any other material considerations set out in the individual reports.

#### **4. PUBLIC SPEAKING**

- 4.1 The Council's constitution allows for public speaking on these items in accordance with the rules set out in the constitution and the Committee's procedures. These are set out at the relevant Agenda Item.

#### **5. RECOMMENDATION**

- 5.1 The Committee to take any decisions recommended in the attached reports.

# Agenda Item 5.1

<b>Committee:</b> Development	<b>Date:</b>	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
----------------------------------	--------------	--	----------------------------

<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Jennifer Chivers	<b>Ref No:</b> PA/16/03535
	<b>Ward:</b> Spitalfields and Banglatown

## 1.0 APPLICATION DETAILS

**Location:** 106 Commercial Street,

**Existing Use:** Office (B1) and Storage (B8)

**Proposal:** PA/16/03535

Conversion of building (class B1/B8 ) to fine dining food market (Class A3).

**Drawings and documents:** LB Tower Hamlets Review of Environmental Noise Reports prepared by Three Spires Limited dated 03/03/2017 refer CH/EN/2017/01 Rev2; Timeout market – operational management statement October 2016; Planning Statement prepared by ISA dated November 2016. Environmental Noise Survey 30 August 2016 prepared by Paragon Acoustic Consultants; RBA Acoustics – Plant Noise Assessment Rev 3 reference 7780/PNA – dated 28 February 2017; RBA Acoustics – Acoustic Assessment Rev 2 reference 7780/AAR dated 15 February 2017; 1635 (EX) 001Rev B; 1635 (EX) 002 Rev B; 1635 (EX) 003 Rev B; 1635 (EX) 004 Rev B; 1635(EX)005 rev B 1635 (EX) 010; 1635 (EX) 011; 1635 (EX) 012; 1635 (EX) 013 1635 (PL) 001 Rev A; 1635 (PL) 002B;1635 (PL) 003; 1635 (PL) 004; 1635 (PL) 0051635 (PL) 010; 1635 (PL) 015; 1635 (PL) 016; 1635 (PL) 017; 1635 (PL) 018; 1635 (SK) 400

**Applicant:** Time Out Markets Ltd

**Ownership:** Truman Estates Ltd

**Historic Building:** The host property is not listed. Adjacent to Golden Heart Public House (Grade II), Spitalfields Market (Grade II), 13-25 Wilkes Street (Grade II) 4-7 Puma Court (Grade II).

**Conservation Area:** Fournier Street Conservation Area.

## **2.0 EXECUTIVE SUMMARY**

- 2.1 The Local Planning Authority has considered this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document (2013) in addition to the London Plan (2016) as well as the National Planning Policy Framework 2012 and all other material considerations.
- 2.2 The proposal involves the change of use of the existing building (B1/B8) to create a permanent fine dining food market (A3). The food market would incorporate 17 permanent kitchens and a cooking school. The main pedestrian entrance would be from the existing entrance on Commercial Street.
- 2.3 The main material planning considerations for Members to consider are whether the use would have an acceptable impact on the neighbouring amenities of residents and an acceptable impact on the surrounding highway network;
- 2.4 Officers accept that a large number of residents have expressed concerns about the anti-social behaviour levels within the surrounding area and the resultant increase that is perceived by the application, but are satisfied that subject to conditions the impact upon local residents can be suitably mitigated
- 2.5 In conclusion, officers consider that the benefits of the proposal, including the uplift in employment and its role in supporting the wider economy would outweigh any harm identified

## **3.0 RECOMMENDATION**

That the Committee resolve to APPROVE planning permission subject to Conditions.

- a) That the Corporate Director of Place is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters

### **Conditions**

1. Three year time limit
2. Compliance with approved plans and documents
3. Hours of operation
4. Delivery and Service Management Plan
5. Scheme of Highway Improvement Works
6. Details of all Secure by Design measures
7. Waste management
8. Restriction on A4 use class
9. Restriction on off site distribution
10. Cycle parking
11. Installation in accordance with the mechanical services plan
12. Acoustic compliance assessment
13. Vibration installation compliance
14. Sound limiting device
15. Management Plan
16. No external music
17. Dispersal policy



18. Maintenance schedule for extract equipment
19. Post completion noise testing

Pre-Commencement Conditions

20. Samples and details of all facing materials (gate)
21. Construction management plan

#### **4.0 PROPOSAL AND LOCATION DETAILS**

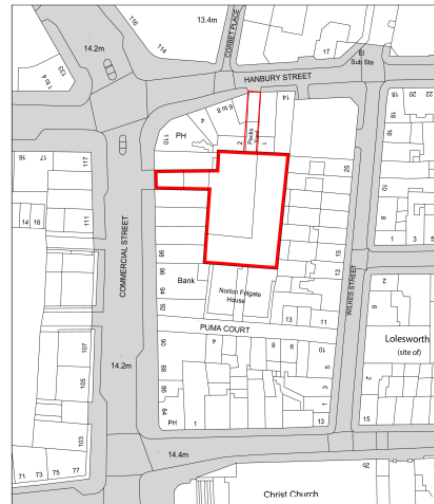
##### **Proposal**

- 4.1 The proposal involves the change of use of the existing building (B1/B8) to create a permanent fine dining food market (A3). The food market would incorporate 17 permanent kitchens and a cooking school. The main pedestrian entrance would be from the existing entrance on Commercial Street.
- 4.2 The building is laid out with a large open space in the middle which would house the main seating area. Around this space is an L shape warehouse which contains three levels, being lower ground/basement, upper ground and first floor.
- 4.3 The main open ground floor space would contain the majority of the seating area, two dessert bars and two breakfast kitchens and the visitor cycle spaces.
- 4.4 The basement level would contain the dish washing areas, storage for the kitchens, the customer toilets and separate staff toilets. The upper ground level would contain 8 kitchen spaces with seated areas overlooking the ground level dining space. The first floor level would contain 7 kitchen spaces and one large open kitchen for lessons and demonstrations and a private dining space.
- 4.5 An internal lift and two internal stairwells would be installed to ensure access to all levels. In addition to two internal enclosed staircases will be installed as fire escapes at the northern and southern ends of the building.
- 4.6 The hours of operation for the proposed market are:  
  
08:00 – 23:30 Monday to Friday;  
08:00 – 23:30 Saturday;  
10:00 – 22:30 Sunday and Bank Holidays;
- 4.7 It is anticipated that the food market would accommodate 200 permanent staff including kitchen, concierge, cleaners and maintenance and up to 435 seated customers and 30 standing customers. This would accommodate up to 650 people on site at any time.
- 4.8 It is proposed to install an additional acoustic layer which would sit on top of the existing roof, and remove a number of the existing lightwells. The new roof would cover the existing roof with an insulated layer.
- 4.9 The proposed plant and equipment would be installed on a section of flat roof located at the northern end of the site adjacent to Pecks Yard. The plant will be enclosed by powder coated aluminium acoustic louvre screens which will rise to 3 metres in height at second floor level and 1.5 metres in height at third floor level. In addition, the extraction flues would also run the length of the building within the valleys of the two buildings roof.

- 4.10 The waste and recycling would be collected from the Pecks Yard laneway and the majority of servicing and deliveries would take place on Commercial Street from the existing on street loading bays.

### Site and Surroundings

- 4.11 The application site is a former Victorian warehouse that is three storeys in height and is largely set back from the public highway, situated behind buildings fronting onto Commercial Street and Hanbury Street, although the site includes direct and indirect access from both these streets.
- 4.12 The site is landlocked and located in the centre of an urban block and is bounded by Hanbury Street to the north, by the rear of the Grade II listed Victorian terrace at 13-25 Wilkes Street (odd) to the east, by the rear of the block of flats at Norton Folgate House to the south, and by the rear of the buildings at 98-108 Commercial Street (even) to the west.





- 4.13 The surrounding area is home to a mix of uses, with Spitalfields Market located immediately to the west of the site, whilst frontages along Commercial Street typically include a mix of retail and business uses, often with residential or offices on the upper floors of the buildings. The site is also located a short distance to the west of the Brick Lane District Centre, which is focused around Brick Lane and includes a large number of retail shops, cafes, restaurants, bars and hot food takeaways along the ground floor frontages.
- 4.14 The application site lies within the City Fringe Activity Area, as designated in the Council's adopted Managing Development Document (2013) and within the City Fringe Opportunity Area, as designated in the London Plan (2016). The site is also situated adjacent to, although outside of, the eastern boundary of the Central Activities Zone, as designated in the London Plan (2016) and outside of the western boundary of the Brick Lane District Centre, as designated in the Managing Development Document (2013).
- 4.15 The site lies within the Brick Lane and Fournier Street Conservation Area, which was designated in July 1969 as 'Fournier Street' and then extended in 1978 and again in 1998, when its name was changed to reflect Brick Lane's contribution to the character of the area. It is one of the largest in Tower Hamlets, running along Brick Lane from Bethnal Green Road in the north down to Whitechapel in the south. The adjacent three storey Victorian terrace at 13-25 Wilkes Street (odd) is Grade II listed as is the Golden Heart public house on corner of Hanbury and Commercial street and Spitalfields Market.

### **Planning History**

#### *106 Commercial Street*

- 4.16 PA/81/00110  
Extension at first floor level for use for storage purposes. Permit 15 January 1982
- 4.17 PA/06/00377

Change of use from warehouse to museum and exhibition halls. Withdrawn 10 March 2006

- 4.18 PA/13/00859  
Change of use of ground and first floor levels from warehouse (Use Class B8) to retail (Use Class A1). Permit 31 May 2013
- 4.19 PA/13/02336  
Retention of high level profiled metal cladding to the north elevation and the erection of a mono-pitch profiled metal sheet roof to the northernmost section of the building. Permit 19 November 2013
- 4.20 PA/14/01133  
Installation of replacement roller shutter to the north elevation. Permit 24 June 2014
- 4.21 PA/15/00403  
Change of use of the rear ground floor of 14 Hanbury Street from 'unknown' to B1 (office) and of the basement, lower ground, ground, upper ground and first floor levels at 106 Commercial Street from A1 (retail) and B8 (warehouse) to B1a (office). Permit 15 April 2015.
- 4.22 PA/15/00597  
Glazing and entrance alterations to 106 commercial street and 16 Hanbury street. Minor demolition is proposed for the removal of the corrugated facade to Pecks Yard and to form new openings at roof level for the creation of additional skylights. Permit 5 June 15
- 4.23 PA/15/00589 - Installation of roof level air handling equipment and acoustic screening. Permit 23 Jun 2015

#### *London Fruit and Wool Exchange*

- 4.24 PA/11/02220/A1  
Demolition of Whites Row Multi-Storey Car Park, 99-101 Commercial Street (The Bank), 54 Brushfield Street (The Gun Public House), and partial demolition of the London Fruit & Wool Exchange behind the retained Brushfield Street facade and the erection of a six storey building with a basement, for business, employment and retail use (Use Classes B1/A1/A2/A3 & A4) with landscaping and associated works, together with a new pavilion building for retail accommodation (Use Class A1). Approved 28/03/2013.

## **5.0 POLICY FRAMEWORK**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of planning applications must be made in accordance with the plan unless material considerations indicate otherwise.
- 5.2 For details of the status of relevant policies see the front sheet for "Planning Applications for Determination" agenda items. The following policies are relevant to the application:

## 5.2 **Government Planning Policy**

National Planning Policy Framework 2012  
National Planning Practice Guidance

## 5.3 **London Plan 2016**

2.10 Central Activities Zone – strategic priorities  
2.11 Central Activities Zone – strategic functions  
2.12 Central Activities Zone – predominantly local activities  
2.13 Opportunity Areas and Intensification Areas  
3.16 Protection and enhancement of social infrastructures  
4.1 Developing London's economy  
4.4 Managing industrial land and premises  
4.6 Support for and enhancement of arts, culture, sport and entertainment  
4.7 Retail and town centre development  
4.8 Supporting a successful and diverse retail sector  
5.17 Waste capacity  
6.3 Assessing effects of development on transport capacity  
6.9 Cycling  
6.10 Walking  
7.1 Building London's neighbourhoods and communities  
7.15 Reducing noise and enhancing soundscapes  
7.2 An inclusive environment  
7.3 Designing out crime  
7.4 Local character  
7.5 Public realm  
7.6 Architecture  
7.8 Heritage assets  
7.14 Improving air quality

## 5.4 **Tower Hamlets Core Strategy 2010**

SPO1 Refocusing on our town centres  
SP02 Urban living for everyone  
SP03 Creating healthy and liveable neighbourhoods  
SP05 Dealing with waste  
SP06 Delivering successful employment hubs  
SP09 - Creating attractive and safe streets and spaces  
SP10 - Creating Distinct and Durable Places  
SP12 - Delivering placemaking

LAP 1&2 – Spitalfields

## 5.5 **Managing Development Document 2013**

DM1 – Development within the town centre hierarchy  
DM2 - Local shops  
DM14 – Managing Waste  
DM15 - Local job creation and investment  
DM16 – Office Locations  
DM20 – Supporting a sustainable transport network  
DM22 - Parking  
DM23 - Streets and the public realm  
DM24 - Place-sensitive design

DM25 - Amenity  
DM27 - Heritage and the historic environment

## 5.6 **Supplementary Planning Documents**

Brick Lane and Fournier Street Conservation Area Character Appraisal and Management Guidelines, LBTH (2009)  
City Fringe Opportunity Area Planning Framework, GLA (Adopted December 2015)

## 6.0 **CONSULTATION RESPONSE**

6.1 The views of the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

6.2 The following were consulted regarding the application:

### **Internal Consultees**

#### **LBTH Transportation & Highways**

6.3 The applicant has now provided additional onsite cycle parking spaces. Transport have no objections subject to conditions to provide 10 off site cycle spaces and provision.

#### **LBTH Conservation and Design Officer**

6.4 The Council's Design officer raised no objection to the application. However considers the installation of roof level changes to be appropriate as internal features will be preserved. The details of materials and design of entry door should be conditioned.

#### **LBTH Waste Officer**

6.5 There are concerns relating to the large numbers of refuse collections particularly during peak times. These will need to be closely organised and further details should be secured and monitored as a condition.

#### **LBTH Policy officer**

6.6 No objections to the use which would appear as a large scale A3 use. This is an area where Policy promotes mixed use and it is complementary to other uses within the area.

#### **LBTH Environmental Health Consultant (Noise and vibration, smell and pollution)**

6.7 From a noise and odour control perspective the development will comply with local and national requirements and that consent can be suitably controlled by way of condition

#### **Transport for London**

6.8 TfL is concerned with the level of proposed cycle parking by the applicant. The applicant should adhere to London Plan (2015) standards which is 59 cycle parking spaces on site (11 long stay and 48 short stay). The cycle parking should also adhere to London Cycle Design Standards (LCDS 2014) and should be demonstrated in the proposed plans. All of this should be secured by condition.

TfL welcomes the provision of a dispersal policy within the application material but would welcome clarification on how visitors would access taxis. The policy states that there would be a taxi booking system and taxi marshals, however further clarification is needed. Also TfL require clarification of where people who want to smoke would be directed to in order to assess its potential implications.

Subject to the above conditions being met, the proposal as it stands would not result in an unacceptable impact to the Transport for London Road Network (TLRN).

*Further comments received confirmed with the additional cycle parks and dispersal policy TfL were satisfied with the proposal. Details of where people will stand for smoking outside the premises will also be sought through the management plan. There will need to be a limit placed on the number of patrons that can utilise the smoking area at any one time to ensure the footway is not unduly blocked.*

### **Met Police - Crime Prevention Officer**

- 6.9 It is recommended that secure by design accreditation is sought given the number of incidences of crime in the area.

### **External Consultees**

#### **Spitalfields Community Association**

Object for following reasons:

- Increase in antisocial behaviour
- Noise pollution and odour
- No provision for smokers
- Ability to be utilised as a large A4 use.

#### **Spitalfields Joint Planning Group**

No comments received

#### **Spitalfields Neighbourhood Planning Forum**

No comments received

#### **The Spitalfields Historic Buildings Trust**

No response received

#### **The Spitalfields Society**

Object for the following reasons:

- Overdevelopment which is inadequately accommodated
- Noise from external plant
- Odour from kitchen extract
- Inadequate design of external plant
- Noise from operations
- Removal of traditional roof form and finishes
- Inadequate sanitary facilities
- Threat to public safety
- Inadequate means of escape
- Inadequate smoking provision
- Deliveries provision
- Contrary to the cumulative impact zone

#### **St George's Residents Association**

Object

- Potential noise nuisance
- Anti social behaviour
- Increased deliveries
- Waste deliveries spilling into residential streets near by
- Potential risk to pedestrians

**Woodseer and Hanbury Residents Association.**

No comments received

**7.0 LOCAL REPRESENTATION**

7.1 A total of 54 neighbours letters were sent to neighbours and interested parties. a site notice was displayed from 21 December 2016 at both the Commercial Street entrance and Pecks yard entrance and the application was advertised in local press.

7.2 The number of representations received in response to notification and publicity of the application is as follows:

No of individual responses:	letters: 57 letters of representation
	14 in support
	43 in objection

7.3 The following comments were raised in objection to the proposal:

- There is already a significant number of food outlets in the Spitalfields area;
- In summer, these streets are already full of people spilling out of the two pubs at either end of Commercial Street and this application will increase the numbers and cannot be accommodated;
- The addition of 2000 visitors per day cannot be accommodated within this area which is already busy and overcrowded;
- A former stable block is an inappropriate space for a dining establishment of this density whereas a more permeable site would allow quick evacuation should an emergency occur.
- A drinking and dining venue on this scale should not be situated so close to so many residential properties and in an area that is already saturated with bars and restaurants.
- The application is misleading and is not for an A3 use and it will create a new large bar and drinking establishment.
- Take away food could be taken from the premises and eaten off site resulting in large numbers of people out on the streets.
- Commercial street cannot accommodate a concentrated and intensive use for food and drink with thousands of extra visitors per day;
- There is no booking system proposed and as such this will result large crowds. This may result in public and pedestrian safety issues with large numbers of people on the footpath on Commercial Street in conflict with the heavy traffic of Commercial Street.
- Control of the dispersal of visitors
- The scheme is too large for an overburdened areas
- Insufficient onsite facilities for the number of visitors to the site;
- Very large and unprecedented operation;
- Incompatible with surrounding uses;
- Insufficient emergency exits;



- Access to the building is too small to support the number of diners and drinkers which the application implies will be needed to make the development commercial viable.
- Brick Lane and Spitalfields has been designated a Cumulative Impact Zone.

#### Transport

- The loading bays are used by many other traders and the traffic on Commercial Street is heavy and often jammed, the applicant cannot possibly safely service this operation in timed 15 minutes slots;
- The waste is proposed to leave through Pecks Yard on Hanbury Street, this is already utilised by a large number of larger vehicles and will make traffic management impossible and be hugely disruptive;
- The procedures and routes the applicants propose to conduct deliveries to and waste from an establishment are unrealistic and impractical.

#### Amenity

- The site is immediately surrounded by residential properties with numerous residential properties located throughout the surrounding streets. Existing residents already suffer from anti-social behaviour because of the existing over-saturation of the area in terms of alcoholic venues.
- The noise generated from the bar and restaurant use and the numbers of visitors will be impossible to acoustically seal from the residential homes which abut on the premises.
- The amount of noise from the extractors which are required for the large number of kitchens in use.
- The extract systems even if they confirm will result in huge smells and will be unbearable and does not work in a dense residential space.
- Previously experienced noise carrying from the host property into the neighbouring properties;
- Noise breakouts;
- Unpleasant odours already exist.
- The amount of air conditioning on the roof will be a constant source of noise pollution as will the noise emanating from the kitchens and the diners/drinkers inside the building.
- The kitchen smells being discharged will affect properties in the near vicinity.

#### Design

- The historic former stables building by replacing the current slate roof is unacceptable;

#### Anti-Social Behaviour

- Existing waste already left on streets from customers who leave premises;
- There are existing examples of antisocial behaviour suffered everyday by residents including defecation, verbal and physical abuse, excessive noise and public indecency.
- The high level of expected visitors to this site will vastly increase the levels of anti-social behaviour and increase crime, disorder, public safety and public nuisance which the operator cannot control outside the premises.
- There is no obvious location for smokers, this means they will be pushed out onto the residential streets and the operator cannot control people after they have left the premises.

7.4 The following comments were raised in support of the proposal:

- There are currently three public houses in close proximity which do not offer food, it would seem appropriate that more food of high quality should be on offer in the area;
- The application would benefit the building in both appearance and use.
- The building is classed as a 24 hour warehouse which is not complimentary to the current neighbouring use and the proposed use is more in keeping;
- The site is currently used as a flea market (temporary) and usually has loud uncontrolled music blaring, therefore the timeout food market would be an improvement;
- The proposal will be an asset to the local area;
- The proposal is a very fitting food and drink offering for Spitalfields;

## 8.0 MATERIAL PLANNING CONSIDERATIONS

8.1 The main application has been assessed against all relevant policies under the following report headings:

1. Land Use
2. Design
3. Amenity
4. Transportation
5. Conclusion

### 8.1 Land Use

*Loss of B8/B1 use and proposed A3 use.*

8.1.1 The National Planning Policy Framework sets out the Government's land use planning and sustainable development objectives, introducing a presumption in favour of sustainable development. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles: an economic role – contributing to the economy through ensuring sufficient supply of land and infrastructure; a social role – supporting local communities by providing a high quality built environment, adequate housing and local services; and an environmental role – protecting and enhancing the natural, built and historic environment.

8.1.2 These economic, social and environmental goals should be sought jointly and simultaneously. The framework promotes the efficient use of land with high density, mixed-use development and encourages the use of previously developed, vacant and underutilised sites to maximise development potential, in particular for new housing.

8.1.3 In line with the National Planning Policy Framework, the London Plan policies 2.15 and 4.7 require new uses in town centres to support the vitality and viability of the centre; Accommodate economic growth through intensification and selective expansion in appropriate locations; Support and enhance the competitiveness, quality and diversity of town centres retail, leisure, arts and culture, other consumer and public services; Be of a scale related to the size, role and function of the centre, and be easily accessible to public transport.

- 8.1.4 Policy SP01 of the Core Strategy, with related objectives SO4 and SO5, seeks to ensure that the scale and type of development is proportionate to the town centre hierarchy and to promote mixed use at the edge of town centres and along main streets. The policy also seeks to ensure that town centres are active, well-used and safe during day and night and to encourage evening and night time economy uses. Evening and night time uses should not be over-concentrated where undue detrimental impact on amenity would result, of a balanced provision and complementary to the adjoining uses and activities.
- 8.1.5 Further guidance is provided by policy DM1 of the MDD directs evening economy uses to town centres, provided that they do not result in overconcentration, supporting a mix of uses specifically within the Tower Hamlets Activity Areas. Development in these areas should provide a transition between the scale, activity and character of the Central Activity Zone and their surrounding places. DM1 (4) states to further support the vitality and viability of town centres, restaurants, public houses and hot food takeaways (Use Class A2, A4, A5 will be directed to the Central Activity Zone, Tower Hamlets Activity Area and town centres provided that they do not result in an overconcentration of such uses and in all town centres there are at least two no A3, A4 and A5 units between every new A3, A4, A5 unit.
- 8.1.6 Policy DM15 of the MDD concerns Local Job creation and Investment. DM 15(1) states 'upgrading and redevelopment of employment sites outside of spatial policy area will be supported. Development should not result in the loss of active and viable employment uses, unless it can be shown that the site has been actively marketed or that the site is unsuitable for continue employment use due to its location, viability, accessibility and condition.
- 8.1.7 The application site is located within the Tower Hamlets Activity Area and the city fringe activity area, a transitional area between the Central Activity Zone (adjacent side of Commercial Street) and the Brick Lane District centre, and the residential areas of Shoreditch, Whitechapel and Bethnal Green.
- 8.1.8 The site has previously been in employment use with B8 (light industrial) and ancillary office use; however, the 1- 3 storey building which occupies the entire site has a restrictive internal layout, with an L-shape warehouse with three internal levels, around a wide open ground floor level.
- 8.1.9 The site has an existing floor area of 1800m<sup>2</sup>. The site has not been actively use for B8 operation for at least 5 years. B8 employment uses are characterised by a low employment, typically 70m per FTE: amounting to 26 FTE on a site of this size. Given (a) the lack of an active employment on the site, (b) the prospective of a greater employment density being associated with the proposed new land uses and (c) the overall pattern of emerging land uses occurring in the neighbourhood (that does not lend the site well to have a viable use as a B8 warehouse space in the future) the change of use does not raise planning policy concerns in respect of DM15.
- 8.1.10 Implementation of the proposed scheme would bring the site back into active employment use and support the growth of small enterprises in the area. Furthermore it would fulfil these positive employment outcomes in a manner that is compatible with securing the long term future of the building. The building, as set out elsewhere in this report, contributes positively to the character of the conservation area. The scheme and land uses as detailed in the application have the benefit of retaining internal building features of merit



- 8.1.11 The application site is in very close proximity to the Central Activity Zone and Preferred Office Location; however it does not form part of these spatial designations. The fact that the site is not located within the Preferred Office Location makes it suitable for a wider variety of uses including retail, restaurants and entertainment. In terms of character, it is clear that the site does not form part of the core office cluster of Aldgate or City of London and that instead it is more closely related to the evening and commercial economy cluster on both the east (Spitalfields/Liverpool Street) and the West (Brick Lane/Shoreditch).
- 8.1.12 Residents have argued that site is more suitable for a B1 office use. The potential for provision for an office on site provides a similar quantum of employment space for the site as an A3 use with 1 employee per 12m<sup>2</sup> for office and 1 per 15m<sup>2</sup> for A3. The office accommodation could have up to approximately 150 full time equivalent jobs. The proposed development will provide an equivalent of approximately 200 full time jobs which is higher than the office equivalent for office use.
- 8.1.13 The quality of the office accommodation provided would be poor in comparison to that offered in the surrounding areas of Spitalfields and Aldgate, given the overall size, lack of natural light and configuration of the layout. In addition, the site has been excluded from the preferred office location and the local office location, indicates a larger variety of uses are appropriate for the location.
- 8.1.14 In addition, the approved planning permission PA/15/00403, permitted April 2015, for the change of use of part of the site to B1 (office) has never been implemented. Officers noted in both the 2013 and 2015 planning permissions that the site has been vacant prior to granting and has remained essentially vacant until present time. Therefore given this permission has never been implemented, there is no actual loss of this B1 use on site.

- 8.1.15 As such, the site is considered to be generally underutilised in land use terms, making a limited contribution to the local area in a highly accessible location.
- 8.1.16 The provision of a food market would be considered similar in size, scale and effect to a large A3 unit. The proposed use is considered to be complimentary to the adjoining uses in the Central Activity Zone and Spitalfields. The proposal would provide a complementary function which involves the beneficial use of developed land within an urban area which already has a high level of surrounding retail provision.
- 8.1.17 An important component of the Core Strategy vision for the area component of the Core Strategy vision for the area expressed through policy LAP 1&2 – Spitalfields is to ensure a vibrant, diverse and mixed use area with the aim for Spitalfields to continue to be characterised by its diverse ethnic communities and its specialist offer in fashion, arts and restaurants. The policy recognises the opportunities that the accessible location means that the focus will be on growth in the commercial sector centring on employment, retail and hospitality. It would also provide a use which supports the neighbouring POL's and helps to make these more successful and attractive to new office tenants.
- 8.1.18 The provision of a food market is a specialist offer within the borough, especially given the temporary nature of the nearby permitted Boxpark, which will be removed upon redevelopment of Bishopsgate Goods yard, therefore it is unlikely to operate in competition with this site.
- 8.1.19 The site occupies a town centre location, characterised by dynamic commercial activity where it can be expected that noise and disturbance will be experienced. This is evidenced within the acoustic report which has acknowledged the high level of background noise experienced. Subject to conditions this can be further managed and mitigated.
- 8.1.20 Offices acknowledge the site occupies an already busy location within a busy commercial area, however consider the use on site to be suitable and reasonably controlled by conditions.
- 8.1.21 Concerned residents have noted that within the 17 proposed kitchens any number of them could be utilised for an A4 use. The sale of alcohol is part of an A3 use and if the site use alters to become used predominantly as a drinking establishment this would be a matter for the Council to enforce and would represent a change of use away from A3.
- 8.1.22 In addition, officers are concerned about the impact that the potential to operate as an A5 unit with offsite orders and deliveries taken from site (for example deliveroo operation, uber eats). Officers consider this could result in adverse effects on the highway network which have not been assessed as part of this application and as such a condition will be attached restricting any vehicular distribution of sales from the site.
- 8.1.23 While there is a loss within the B (employment) use class, the change of use is considered acceptable in land use terms given the highly accessible underutilised site, which would not result in the loss of an active and viable employment use. The proposed use would also be complementary to the role of the adjoining Spitalfields, central activity area and is outside of the preferred office location but would help to support this use. The use sits well within the adjacent evening and commercial economy cluster on both the east (Spitalfields/Liverpool Street) and the West (Brick Lane/Shoreditch).

## **8.2 Design**

- 8.2.1 According to paragraph 56 of the NPPF the government attaches great importance to the design of the built environment. Good design is a key aspect of sustainable development, is indivisible from good planning, and should contribute positively to making places better for people.
- 8.2.2 Policy 7.1 and 7.4 of the London Plan states that development should promote a good quality environment, provide a character that is easy to understand and relate to and have regard to the form, function and structure of an area, place or street and the scale, mass and orientation of surrounding buildings. Development should also improve an areas visual or physical connection with natural features.
- 8.2.3 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surroundings. Policy SP12 (G) seeks to ensure that places provide for a well-connected, safe, and attractive network of streets and spaces that make it easy and pleasant to walk and cycle.
- 8.2.4 The Council's Managing Development Document policy DM24 (1A) seeks to ensure that design is sensitive to and enhances the local character and setting of the development.
- 8.2.5 The existing warehouse lies within the Fournier Street Conservation area and is surrounded on all sides by existing buildings and visibility is limited. The existing building preserves much of its original features and internal appearance and has a positive contribution to the character and appearance of the Fournier Street Conservation area.
- 8.2.6 The internal refurbishment intends to retain much of the original fabric of the warehouse. The acoustic roof will sit on top of the existing roof and therefore will maintain the internal features.
- 8.2.7 Given the minimal external and internal changes, the proposal is considered to preserve the existing building and the wider Fournier Street Conservation Area.

## **8.3 Amenity**

- 8.3.1 According to paragraph 17 of the NPPF local planning authorities should always seek to secure high quality design and a good standard of amenity for all existing and future occupants of land and buildings.
- 8.3.2 Policy 7.14 of the London Plan states that local planning authorities should put in place strategies to achieve reductions in pollutant emissions and minimise public exposure to pollution.
- 8.3.3 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that development protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight); and uses design and construction techniques to reduce the impact of noise and air pollution.
- 8.3.4 The Council's Managing Development Document policy DM25 (1A & 1E) seek to ensure that development does not result in an unacceptable increased sense of

enclosure or create unacceptable levels of noise, odour or fumes during the life of the development during the life and construction of the development.

- 8.3.5 The Council's policies (see Core Strategy SP10 and Managing Development Document DM25) seek to protect, and where possible improve the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm.

#### Noise

- 8.3.6 Paragraph 123 of the NPPF states that planning policies and decisions should aim to avoid noise that gives rise to significant adverse impacts on health and quality of life as a result of new development. They should seek to mitigate and reduce to a minimum other adverse impacts on health and quality of life arising from noise from new development, including through the use of conditions. It is recognised that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land uses since they were established.
- 8.3.7 The Council's policy seeks to ensure that noise from plant should be 10dB below background noise levels when measured 1m from the nearest noise sensitive facades. The applicants have submitted three separate noise assessments which assess the existing and proposed background acoustic levels, plus noise and vibration from mechanical plant and extraction units. These acoustic reports have been independently reviewed for the Council by a noise consultant. The Council's consultant has no issue with the methodology set out in the acoustic reports of the noise surveys undertaken in respect of assessing background noise levels to neighbours.

#### *Operational and Activity noise*

- 8.3.8 The scheme has the potential to create breakout noise over and above that which is already received within the surrounding environment. Given this possibility, the applicant has set out a series of mitigation measures to control and limit the noise breakout to within acceptable background acoustic levels.
- 8.3.9 The background noise survey has indicated that typical noise levels do not fall below 70dB(A) on Commercial Street, primarily due to traffic noise as well as contribution from existing mechanical service and pedestrian noise. Within Puma Court the noise survey indicate existing noise levels are lower than Commercial street but do not fall below 58dB(A), even at night.
- 8.3.10 The acoustic reports demonstrate that noise levels breaking out from the operation can be maintained with implementation of control measures below existing ambient noise levels in the vicinity of the site. The Council's consultants consider the mitigation measures are fit for purpose, subject to a post-completion acoustic assessment to confirm the mitigation methods are acting as predicated. Should the post-completion assessment record exceedances the controls and mitigation measures would be adjusted to bring the break out levels within acceptable noise levels. The mitigation measures and post-completion acoustic assessment would be secured by planning condition.

- 8.3.11 The hours of operation of the scheme will be managed by planning condition. The applicant will also be required to prepare an operational management plan that will include setting out how the operator will manage the site including managing customer behaviour as they leave the site. The management plan will be subject to condition and will contain preparation of an update monitoring report to highlight any issues for the LPA to review 12 months after the development is fully operational. The scheme will involve no live music and this stipulation will be secured by planning condition.
- 8.3.12 With respect to noise associated with waste collection and servicing this will be dealt with by preparation of delivery and service management plan and the waste management strategy and secured by planning condition which will include control over delivery times and frequency of deliveries.

#### *Extraction noise*

- 8.3.13 The hours of use proposed are from 7am until 11:30pm, which mean that the plant could also potentially operate between these times with the addition of condensing units which may operate at any time. As such, the assessment has been undertaken against the lowest background level at night.
- 8.3.14 The predicted plant noise emissions at the nearest noise sensitive windows have been reviewed by the Council's noise consultants and are acceptable given the precautionary approach of the assessment applied using the lowest background noise level and the context of the acoustic environment.

#### *Overview*

- 8.3.16 In summary, in respect of noise and general disturbance subject to the above matters being dealt with by planning condition, it is considered that the proposed development would adequately protect neighbouring residents from undue noise and disturbance, in accordance with Policy SP10(4) of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

#### *Odour*

- 8.3.17 Given the scale of the proposal, in accordance with the DEFRA Odour risk assessment a very high level of odour control is required. The configuration of the extraction system is a highly specialist system which will only discharge after significant filtering processes in line with the recommended level of odour control. The environmental health officer is satisfied that the extraction equipment is suitably designed to cater for the number of units and will meet with DEFRA guidelines. However in order to ensure the system operates in the manner detailed and will continue to meet the guidelines a condition is attached to provide the maintenance schedules for the systems.

#### Anti-social behaviour

- 8.3.18 Policy 7.3 of the London Plan (2016) seeks to create safe, secure and appropriately accessible environments where crime and disorder and the fear of crime does not undermine the quality of life or cohesion. This policy also highlights that developments should reduce opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating.
- 8.3.19 The Council's Managing Development Document DM23 (3) states that development will be required to improve safety and security without compromising good design and inclusive environments.



- 8.3.20 The Metropolitan Police's Crime Prevention Officer who has provided comments in relation to the proposal. The crime prevention officer has not raised concerns in relation to the proposal and the increase in anti-social behaviour. The Crime prevention officer did note that the area does already experience a high level of crime and as such has recommended that secured by design accreditation is sought. This is conditioned accordingly.
- 8.3.21 Objectors have commented that there is a high level of anti-social behaviour occurring around the site. A number of objectors have attached photographs of the neighbouring streets and residents which are a result of the existing anti-social behaviour problems.
- 8.3.22 Officers do observe that there is evidence of a level of criminal activity recorded in and around the host property, in light of the inner city location, a high number of visitors to the area it cannot be considered that the antisocial behaviour is exceptional given its context, and therefore officers consider it would not be appropriate for the Council to make an exception to the policy position in this instance.
- 8.3.22 Whilst the effects of anti-social behaviour on site can have a negative impact on the amenity of residents, the applicant has outlined steps that could be undertaken on site to manage the visitors to and from the site. It is also considered that a condition should be attached requiring a visitor management strategy which would include details of door supervision to manage any queues along the public footpath, limiting the site capacity, proposals for management of the smoking area, patrol personnel and managing visitor egress from the site by ensuring staggered stall closing times.
- 8.3.24 It should also be noted that the closure time of the venue is 11:30pm so this is not proposed as a late night venue, and the focus is on the consumption of food rather than alcohol. The measures that the applicant is proposing will assist in minimising any anti-social behaviour that might occur as a result of this proposal and in light of this, and the conditions proposed, it is considered that the use would not add significantly to the existing anti-social behaviour issues which occur in the locality.

#### **8.4 Highways and Transportation**

- 8.4.1 The NPPF and Policy 6.1 of the London Plan seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 of the London Plan requires transport demand generated by new development to be within the relative capacity of the existing highway network. London Plan Policy 6.13 states that developments need to take into account business delivery and servicing. This is also reiterated in MDD Policy DM20 which requires Transport Assessments submitted with a development scheme to assess adequate regard has been made for servicing and for safe vehicular movements associated with this.
- 8.4.2 Core Strategy policies SP08, SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.
- 8.4.3 The applicant has submitted a Transport Statement that contains details of servicing, waste collection and cycle parking

## Access

- 8.4.5 The primary access for customers is from the existing access on Commercial Street. The entrance is 4.7 m wide and with a gentle gradient rise into the main open area in the centre of the building.
- 8.4.6 There are two proposed fire exits on each end of the building and two sets of stairs to the top floors. A customer lift is also proposed which will give level access to each floor.

## Servicing and Delivery

- 8.4.7 Policy SP09(3) of the Core Strategy seeks to ensure new development has no adverse impact on the safety and capacity of the road network. Concerns have been raised that this proposal would result in an increase in road traffic due to taxi pickups and set downs. However the site has excellent accessibility to public transport (PTAL 6b) and it is considered that many of the users of the site would travel to and from the site via public transport; particularly with the opening of the night tube and the closure of the market prior to midnight. Due to the scale of the operation it is not considered that the volume of those who might use taxis would result in a significant impact on the capacity of Commercial Street and Transport for London are satisfied with the dispersal policy proposed.
- 8.4.8 On both sides of Commercial Street two loading bays are provided. There are double yellow lines on Hanbury Street, which allow loading and unloading, which could accommodate a delivery should the Commercial Street loading bays be unavailable. However the applicants transport assessment has indicated that between the four loading bays there is general availability to accommodate these deliveries. Given the high number of differing vendors within the site the applicant is proposing to limit the number of deliveries and consolidate these.
- 8.4.9 A condition requiring details of servicing and deliveries would be requested prior to the commencement of the use; this would include details of the frequency of the deliveries, consolidation of those deliveries, management of distribution of goods within the site and routing of vehicles.

## Cycle Parking

- 8.4.10 The NPPF and Policies 6.1 and 6.9 of the London Plan (2016), Policy SP09 (4) of the Core Strategy (2011) and Policies DM20 and DM22 of the Managing Development document (2013) seeks to ensure development proposals promote sustainable modes of transport and accessibility, and reduce the need to travel by car.
- 8.4.11 The Parking Addendum to chapter 6 of the London Plan (2016) sets minimum cycle parking provision standards. For A3 (restaurant over 100sqm) use 1 cycle space per 175sqm for long stay and 1 space per 40sqm per short stay. The scheme now proposes 18 short stay spaces within the ground level of the site and 11 long stay within the lower ground floor space.
- 8.4.12 The cycle parking in the area is heavily parked and it is considered particularly important that the site be able to provide the appropriate level of cycle parking within the site and area. The provision and details will be secured via condition and retained thereafter.

## Waste and Refuse

- 8.4.13 The existing on site waste collection requires vehicles to park along the kerb on Hanbury Street and collect refuse from inside the site, accessing it through Pecks Yard.
- 8.4.14 The proposed bin stores will include the following Food Waste 4 x 120Ltr bin General waste 1 x 1110 ltr bin Dry Mixed recycling 2 x 1000 Glass – 4 x 240 ltr bin
- 8.4.15 It is anticipated that there will be 11 refuse collections during the week, with 7 for food and dry mixed recycling, 3 for glass and 1 for general waste. These collections will be undertaken from Hanbury Street from Pecks yard. The waste can be accommodated within Peck's yard which the applicant has a easement over which allows them to use the space. The waste can be accommodated within 10 metre drag distance to Hanbury street.
- 8.4.16 The collections will need to be closely managed. The transport assessment states that with a maximum of 2 refuse collections a day will be timed to ensure they do not conflict with each other or with peak hours of the network. A waste strategy will be conditioned to ensure that the Council agrees with the proposed hours of collection to minimise impacts on the highways network.
- 8.4.17 In addition to this, a collection for oil will need to be organised and this could be separately organised through the waste management strategy. The Council's waste officer has confirmed that based on the supplied information this is acceptable.
- 8.4.18 There is ability for waste vehicles to utilise Corbet Place in order to leave the site and not utilise Brick Lane which is often closed during weekends. Further details of the directions of travel will be conditioned as part of the waste management strategy.

## **8.5 Other**

### 8.5.1 Cumulative Impact Zone

- 8.5.2 Concerned residents have stated that the site falls within a cumulative impact zone. This impact zone affects the licencing of a premises for alcohol and is not related to planning policy. The Cumulative Impact Zone is in place in the Brick Lane / Spitalfields area and means that there is a presumption against the granting of a licence, unless the applicant can demonstrate that they will suitably manage their premises in accordance with the licensing objectives. This is different to the regular licence applications, which are deemed granted unless objections are received. The designation of the Cumulative Impact Zone does highlight an issue in terms of anti-social behaviour in this location, however it does not affect planning policy and for the aforementioned reasons, it is considered that this proposal is acceptable and due to the nature of the use and measures out in place by the applicant it would not have a significantly negative impact on the area with regards to anti-social behaviour.

## **9.0 HUMAN RIGHTS CONSIDERATIONS**

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 9.12 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European

Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-

- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
- Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

9.13 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.

9.14 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.

9.15 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.

9.16 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.

## **10.0 EQUALITIES ACT CONSIDERATIONS**

10.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty *inter alia* when determining all planning applications. In particular the Committee must pay due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

10.12 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

10.13 With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation it is identified that level access is provided into all parts of the building thus promoting equality with regards to disability. There are no other identified equality considerations.

## **11.0 CONCLUSION**

11.1 All other relevant policies and considerations have been taken into account. Planning permission should be APPROVED for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS section of this report.

12.0 SITE MAP



# Agenda Item 5.2

<b>Committee:</b> Development	<b>Date:</b> 10 <sup>th</sup> May 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
----------------------------------	---	--	----------------------------

<b>Report of:</b> Director of Place	<b>Title:</b> Application for Planning Permission
<b>Case Officer:</b> Chris Stacey-Kinchin	<b>Ref No:</b> PA/16/01798
	<b>Ward:</b> Canary Wharf

## 1.0 APPLICATION DETAILS

**Location:** Millwall Outer Dock Moorings, Selsdon Way, London

**Existing Use:** Water space (sui generis)

**Proposal:** Erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.

**Drawings and documents:** Location Plan, Rev B  
Option N, SOL-3182-SC23-003  
Option N Overview, SOL-3182-SC24-003  
Option N Overview, SOL-3182-SC25-003  
Option N Storage Area, SOL-3182-SC26-003  
Typical Sections, SOL-3182-SK01-000  
Typical Sections, SOL-3182-SK02-000  
Storage Boxes, 106, P4  
Primary Access Gate, 108, P3  
Access & Servicing Arrangements, Dated March 2017  
CGI Views of Proposal  
Design & Access Statement  
Ecological Assessment, Dated April 2016  
Flood Risk Assessment  
Millwall Docks Waterspace and Moorings Plan  
Planning Statement with Design & Access Details  
Servicing the Proposed Residential Mooring Scheme on Millwall Outer Dock  
Statement of Community Involvement  
Supporting Information Statement

**Applicant:** Canal and River Trust

**Ownership:** Canal and River Trust

**Historic Building:** N/A

**Conservation Area:** N/A

## **2.0 EXECUTIVE SUMMARY**

- 2.1 This application is reported to the Development Committee as the proposal has attracted 5 letters in objection along with a petition in objection containing 36 signatories from nearby residents.
- 2.2 This application has been considered against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document (2013) as well as the London Plan (2016) and the National Planning Policy Framework and all other material considerations.
- 2.3 The planning application is for the erection of a 16 berth residential mooring, including the installation of mooring pontoons and associated site infrastructure.
- 2.4 The loss of existing open water space, and the provision of residential moorings can be considered to be acceptable in this instance as the proposed development meets the relevant exceptions in policy for developing within water space, does not adversely impact upon the ability of Millwall Outer Dock to continue to be used for waterborne sport and leisure activities, and also provides additional residential accommodation within the Borough.
- 2.5 The proposed design of the scheme is acceptable in terms of its layout, scale and appearance, as the proposal does not significantly impact upon the open character of Millwall Outer Dock, features a high quality material palette, and also has been designed in accordance with Secure by Design principles.
- 2.6 The proposal would not adversely impact the amenity of surrounding neighbouring residents and building occupiers, and would also afford future occupiers a suitable level of amenity in accordance with policy SP10 (4) of the Core Strategy (2010) and policy DM25 of the Managing Development Document (2013) and is thus acceptable in amenity terms.
- 2.7 The proposal would not have an adverse impact upon the local highway network, would provide appropriate cycle parking arrangements, and would be serviced in an appropriate manner, as such the proposal is acceptable in transport and highways terms.
- 2.8 The proposed refuse strategy for the site is acceptable as the refuse store is located in a suitable location, is of a suitable size and it has been designed with the Council's waste management hierarchy of reduce, reuse and recycle in mind, in accordance with policy SP05 (1) of the Core Strategy (2010) and policy DM14 (2) of the Managing Development Document (2013).
- 2.9 The proposal is acceptable in air quality, biodiversity and flood risk terms and thus it is in accordance with the relevant policies of the London Plan, Core Strategy (2010) and Managing Development Document (2013) as set out within the policy context section of this chapter.

## **3.0 RECOMMENDATION**

- 3.1 That the Committee resolve to:



**GRANT** planning permission, subject to:

- a) The Corporate Director of Place's delegated authority to recommend the following conditions and informatives in relation to the following matters:

### **3.2 Conditions on planning permission**

1. Time limit (*compliance*)
2. Development to be built in accordance with the approved plans (*compliance*)
3. Further details of the entrance gate, storage boxes and refuse enclosure, including full details and samples of proposed materials (*pre-commencement*)
4. Construction environmental management plan (*pre-commencement*)
5. Full details of biodiversity enhancements (*pre-commencement*)
6. Secure by design details (*pre-commencement*)
7. Feasibility of transporting goods by water (*pre-commencement*)
8. Site management plan (*pre-occupation*)
9. Details of proposed lighting (*pre-occupation*)
10. Further details of cycle storage (*pre-occupation*)
11. Permit free agreement (*pre-occupation*)
12. Refuse storage (*compliance*)
13. Size and number of boats (*compliance*)

### **4.0 PROPOSAL AND LOCATION DETAILS**

#### **Proposal**

- 4.1 The proposed development involves the erection of a 16 berth mooring for narrow boats and other similarly sized vessels, including the installation of an access bridge and deck, 8 finger mooring pontoons which are to be perpendicular to the access deck and dock edge, and associated infrastructure, such as cycle, refuse and general storage to support the proposed moorings.
- 4.2 The proposed mooring facility measures 62m in length and 18.28m in width at its widest point (inclusive of the finger pontoons, but exclusive of the access bridge) and features a clear zone of around 10m in width in the centre of the facility where no boats will be allowed to moor. The main access deck is offset from the existing dockside edge by approximately 6.5m.
- 4.3 Floating planters on the west side of the proposal in between the mooring structure and the dock edge, and on the southern side of the proposal adjacent to 3 Greenwich View Place are also proposed.

#### **Site and Surroundings**

- 4.4 The site has an area of approximately 0.23ha and is an unoccupied portion of water space situated within the North West corner of Millwall Outer Dock. The site is broadly rectangular in shape and is bordered to the north by the Glengall Bridge, bounded to the south by 3 Greenwich View Place, and bounded to the west by 1 & 2 Greenwich View Place. The site is located 'off-line' from the main navigation channel through the dock, by virtue of its location tucked away between existing buildings.
- 4.5 The western edge of the application site directly abuts the dock edge wall which provides a robust interface between the land and water featuring large coping stones and metal railings atop. Behind this is a 5 metre deep public walkway which runs past

the site, along with 3 large former crane structures which serve as a reminder of the former use of Millwall Outer Dock and are a positive feature of the area.

- 4.6 Millwall Outer Dock is a large expanse of water which is connected to both Millwall Inner Dock and South Dock, of which the latter has access to the River Thames via a lock adjacent to the Blue Bridge on the east side of the Isle of Dogs. Millwall Outer Dock also falls within the Millwall and West India Docks Site of Importance for Nature Conservation (SINC). The eastern side of Millwall Outer Dock (opposite to the application site) features a number of informal leisure moorings and the remainder of the dock is open and used by leisure craft, predominantly from the Docklands Sailing and Water sports Centre (DSWC).
- 4.7 The surrounding buildings are predominantly in use for either residential or office purposes, however the construction of a large data centre to the west of the site (in place of no's. 1, 2 and 4 Greenwich View Place) is currently in progress, and there is also a well-used public house (the Pepper St Ontiod) to the North West of the application site. The buildings which surround the site and Millwall Outer Dock range in size and character and range from 2/3 storey buildings through to high rise residential buildings (such as the Baltimore Tower).
- 4.8 The application site does not fall within a designated conservation area, and there are no statutory or locally listed buildings within the immediate context of the site. It should also be noted that the application site falls within flood zone 3.

### **Relevant Planning History**

#### Application Site

- 4.9 None.

#### 1 Greenwich View Place

- 4.10 PA/11/01481 – Upgrading of existing data centre building including alterations to existing louvres, installation of additional louvres, addition of doors, cladding of existing exit door, demolition of existing substation and re-construction to current EDF standards; new 2.5m high palisade boundary fence to rear. (Permission granted 03/08/2011)
- 4.11 PA/16/01026 – Demolition of existing data centre buildings and the erection of a single 3 storey data centre building landscaping, roof level plant and associated works; erection of an enclosed elevated pedestrian link. (Permission granted 31/10/2016)

#### 2-4 Greenwich View Place

- 4.12 PA/12/02055 - Demolition of existing office buildings (B1) and the erection of a three storey data centre building (Class B8), landscaping roof level plant and associated works; erection of an enclosed elevated pedestrian link and retention of office building (Unit 3). (Permission granted 14/03/2013)
- 4.13 PA/16/00027 - Application for variation of condition 2 (compliance with plans) of planning application dated 07/10/2013, ref: PA/12/02055. (Permission granted 07/03/2016)

#### 49-59 Millharbour, 2-4 Muirfield Crescent and 23-39 Pepper Street

- 4.14 PA/16/03518 - Demolition of existing buildings at 49-59 Millharbour, 2-4 Muirfield Crescent and 23-39 Pepper Street and the comprehensive mixed use redevelopment including two buildings ranging from 25 storeys (85.5m AOD) to 30 storeys (100.8m AOD) in height, comprising 316 residential units (Class C3), 1,778sqm (GIA) of flexible non-residential floor space (Classes A1, A3, A4 and D1), private and communal open spaces, car and cycle parking and associated landscaping and public realm works. The application is accompanied by an Environmental Statement. (Application currently under determination)

## **5.0 POLICY FRAMEWORK**

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of this application must be made in accordance with the development plan unless material considerations indicate otherwise.

- 5.2 For details of the status of relevant policies see the front sheet for "Planning Applications for Determination" agenda items. The following policies are relevant to the application:

### **5.3 Government Planning Policy**

National Planning Policy Framework 2012  
National Planning Practice Guidance

### **5.4 London Plan 2016**

2.18 – Green infrastructure: the multi-functional network of green and open spaces  
3.3 – Increasing housing supply  
5.12 – Flood risk management  
5.17 – Waste capacity  
6.3 – Assessing effects of development on transport capacity  
6.9 – Cycling  
6.13 – Parking  
6.14 – Freight  
7.1 – Lifetime neighbourhoods  
7.2 – An inclusive environment  
7.3 – Designing out crime  
7.4 – Local character  
7.5 – Public realm  
7.6 – Architecture  
7.14 – Improving air quality  
7.15 – Reducing and managing noise, improving and enhancing the acoustic environment and promoting appropriate soundscapes  
7.18 – Protecting open space and addressing deficiency  
7.19 – Biodiversity and access to nature  
7.24 – Blue ribbon network  
7.26 – Increasing the use of the blue ribbon network for freight transport  
7.27 – Blue ribbon network: supporting infrastructure and recreational use  
7.28 – Restoration of the blue ribbon network  
7.30 – London's canals and other rivers and waterspaces

### **5.5 Core Strategy 2010**

- SP02 – Urban living for everyone
- SP03 – Creating healthy and liveable neighbourhoods
- SP04 – Creating a green and blue grid
- SP05 – Dealing with waste
- SP08 – Making connected places
- SP09 – Creating attractive and safe streets and spaces
- SP10 – Creating distinct and durable places
- SP12 – Delivering placemaking

## 5.6 **Managing Development Document 2013**

- DM3 – Delivering homes
- DM9 – Improving air quality
- DM10 – Delivering open space
- DM11 – Living buildings & biodiversity
- DM12 – Water spaces
- DM14 – Managing waste
- DM20 – Supporting a sustainable transport network
- DM21 – Sustainable transportation of freight
- DM22 – Parking
- DM23 – Streets and the public realm
- DM24 – Place-sensitive design
- DM25 – Amenity

## 5.7 **Supplementary Planning Documents**

None

## 6.0 **CONSULTATION RESPONSE**

6.1 The views of the Directorate of Development & Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below.

6.2 The following were consulted regarding the application:

### **LBTH Biodiversity Officer**

6.3 The application site is within the Millwall & West India Docks Site of Importance for Nature Conservation (SINC), and whilst the proposal would have an adverse impact upon the SINC, this could be more than offset by the proposed habitat enhancements (as part of this application) which include floating reed beds between the pontoon and dock wall and fish refuges beneath the pontoons. In the event that planning permission is granted such enhancements should be secured by condition.

### **Canal and River Trust**

6.4 No comment.

### **Crime Prevention Officer**

6.5 No objection subject to a pre-commencement 'Secure by Design' condition being imposed.

### **LBTH Design Officer**

6.6 The proposal is broadly considered acceptable subject to further details being provided, including a less visually intrusive entrance gate.

**Environment Agency**

6.7 No objection.

**LBTH Environmental Health – Contaminated Land**

6.8 No objection.

**Isle of Dogs Neighbourhood Planning Forum**

6.9 No comments received.

**LBTH SUDS Team**

6.10 No objection.

**Thames Water Authority**

6.11 No comments received.

**Transport for London**

6.12 TFL request further details regarding the quantum of cycle parking spaces and details of how the site will be serviced.

**LBTH Transport and Highways**

6.13 The applicant is required to provide dedicated cycle parking for the proposal separate to the refuse store. A permit free agreement should be secured by condition and a condition requiring the applicant to explore the feasibility of using the waterways for transporting goods during the construction phase should also be secured.

**LBTH Waste Policy and Development**

6.14 No comments received.

**7.0 LOCAL REPRESENTATION**

7.1 A total of 93 letters were sent to neighbours and interested parties and a site notice was also displayed on site.

7.2 The number of representations received in response to notification and publicity of the application is as follows:

No of individual responses:	Objecting: 5 Supporting: 0
-----------------------------	-------------------------------

No of petition responses:	Objecting: 1 containing 36 signatories Supporting: 0
---------------------------	---

7.3 The following issues were raised in objection to the proposal:

- The proposal will restrict the ability to hold sailing activities in this part of Millwall Outer Dock and thus does not accord with relevant planning policy.
- The introduction of further permanently moored vessels could also increase the likelihood of accidental collisions between DSWC users and moored vessels within Millwall Outer Dock.
- The applicant's statement of community involvement is factually incorrect as objections to this proposal have previously been raised.
- The proposal is an over-development of the site and given the confined nature of the site there is the possibility that vessels manoeuvring in and out of the proposed moorings could collide with either other vessels entering the dock (via the Glengall Bridge) or the adjacent 3 Greenwich View Place building.
- There is a lack of information regarding refuse and recycling storage on site and how the proposed moorings would be serviced. The applicant does not have rights to service the development from the adjacent Greenwich View Place estate. It is also not considered acceptable that the proposed refuse store is to be sited in close proximity to the adjacent 3 Greenwich View Place building.
- The proposed permanent residential moorings would be incompatible with the 24 hour, 365 day a year commercial use of the adjacent properties at Greenwich View Place, and the presence of permanent residential moorings in this location could prejudice the operation of the adjacent commercial use.
- The design of the proposals have quite an industrial feel and is inappropriate in urban design terms and also undermines both the setting of the 3 adjacent cranes and the historic nature of the dock.
- The area of water between the proposed moorings and the dock wall could give potential for debris to collect which would have a detrimental impact on visual amenity and could cause odour.

## **8.0 MATERIAL PLANNING CONSIDERATIONS**

8.1 This application has been assessed against all relevant policies under the following report headings:

1. Land Use
2. Design
3. Amenity
4. Highways and Transportation
5. Refuse
6. Environmental Considerations
7. Conclusion

### **Land Use**

#### Policy Context

8.2 Policy 3.3 of the London Plan (2016) sets out the borough's housing targets until 2025, and states that Tower Hamlets is required to deliver a minimum of 3,931 new homes per year. Policy 7.18 states that *"the loss of protected open spaces must be resisted unless equivalent or better quality provision is made within the local*

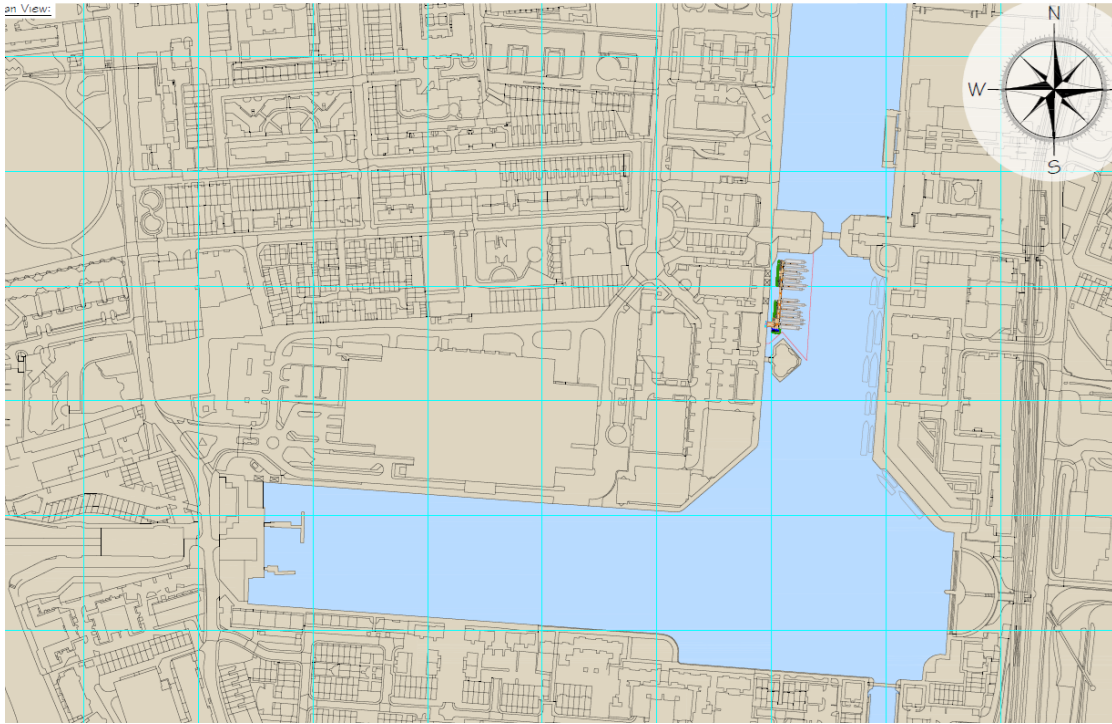
*catchment area*". Policy 7.27 states that "development proposals should enhance the use of the Blue Ribbon Network" and that "new mooring facilities should normally be off line from main navigation routes, i.e. in basins or docks". Policy 7.28 states that "development proposals should restore and enhance the Blue Ribbon Network by preventing development and structures into the water space unless it serves a water related purpose". Finally policy 7.30 states that "development within or alongside London's docks should protect and promote the vitality, attractiveness and historical interest of London's remaining dock areas by promoting their use for mooring visiting cruise ships and other vessels and promoting their use for water recreation".

- 8.3 The Council's Core Strategy Policy SP02 "seeks to deliver 43,275 new homes from 2010 to 2025 in line with housing targets set out in the London Plan" and "ensure new housing assists in the creation of sustainable places". Policy SP04 seeks to "deliver a network of high quality, usable and accessible water spaces, through: protecting and safeguarding all existing water spaces from inappropriate development [and] ensuring residential and commercial moorings are in locations that do not negatively impact on waterspaces or navigation".
- 8.4 The Council's Managing Development Document policy DM3 states that "development should provide a balance of housing types". Policy DM10 states that "development on areas of open space will only be allowed in exceptional circumstances where it provides essential facilities to ensure the function, use and enjoyment of the open space". Policy DM12 states that "development within or adjacent to the Blue Ribbon Network will be required to demonstrate that there is no adverse impact on the Blue Ribbon Network [and] will need to identify how it will improve the quality of the water space and provide increased opportunities for access, public use and interaction with the water space".

#### Loss of Existing Open Water Space

- 8.5 The application site is an area of water space sited within the North West corner of Millwall Outer Dock which is classed as a sui generis use as it does not fall within any specific use class.
- 8.6 Whilst London Plan, Core Strategy and Managing Development Document policies generally seek to protect water spaces from development, said policies do allow for the creation of development and structures within water spaces where they serve a water related purpose, do not adversely impact upon navigability, and promote the vitality and attractiveness of London's remaining dock areas and increase opportunities for interaction with the water space.
- 8.7 Officers consider that the proposed residential moorings do serve a water related purpose, i.e. they will moor water based vessels, and are also content that the proposal does not adversely impact upon the navigability of the dock due to the fact that the proposed moorings are located 'off line', i.e. outside of the main navigation channel which runs through the centre of Millwall Outer Dock. It is also considered that the proposed residential moorings will contribute towards to the diversity and vibrancy of Millwall Outer Dock and will also increase opportunities for interaction with the water space.
- 8.8 Millwall Outer Dock is currently used by a number of users for a variety of waterborne sport and leisure activities, and in order for the loss of existing open water space to be acceptable in this instance the proposed development should not adversely impact upon the ability for Millwall Outer Dock to continue to be used for waterborne sport and leisure activities. Given that the total surface area of the application site makes

up a very small percentage (1.9%) of the available water space across both Millwall Inner and Millwall Outer Docks, officers are content that the proposed development will not affect the ability of Millwall Outer Dock to continue to be used for waterborne sport and leisure activities, as the significant quantum of remaining open water space within Millwall Outer Dock will still provide opportunities for such activities.



*The proposed mooring facility shown within the context of Millwall Outer Dock*

#### Principle of Residential Moorings

- 8.9 The proposed development would result in the creation of 16 residential moorings which are intended to be long term moorings to be used as the occupant's sole or primary residence. Residential moorings do not fall within use class C3 (like other traditional residential properties) and instead are classed as a sui generis use as they do not fall within any specific use class.
- 8.10 As residential moorings do not fall within use class C3, the creation of new residential moorings cannot be counted towards the Borough's housing delivery targets, and affordable housing provision cannot be secured on such developments. In spite of the above however, the provision of such development does in reality meet a need and provides additional residential accommodation within the Borough and is thus in principle supported by officers.

#### Conclusion

- 8.11 The loss of existing open water space, and the provision of residential moorings can be considered to be acceptable in this instance as the proposed development meets the relevant exceptions in policy for developing within water space, does not adversely impact upon the ability of Millwall Outer Dock to continue to be used for waterborne sport and leisure activities, and also provides additional residential accommodation within the Borough.

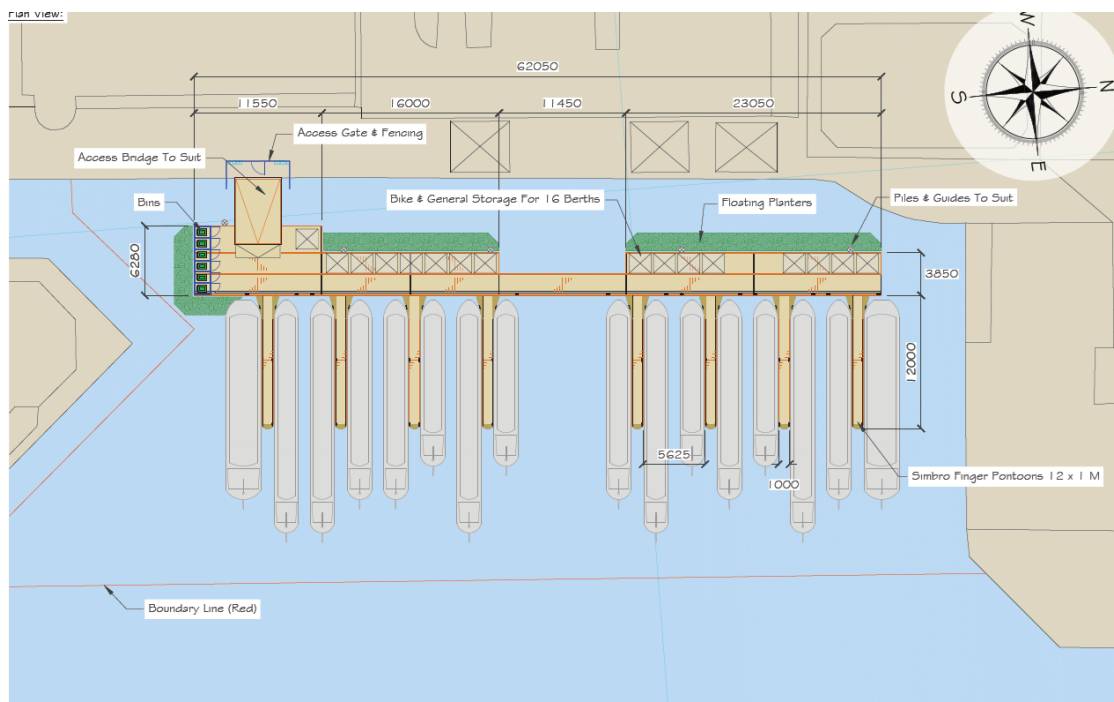
#### **Design**



## Policy Context

- 8.12 Policy 7.1 of the London Plan (2016) seeks to ensure that “the design of new buildings and the spaces they create should help reinforce or enhance the character, legibility, permeability, and accessibility of the neighbourhood”. Policy 7.2 seeks to ensure “the principles of inclusive design [...] have been integrated into the proposed development”. Policy 7.3 seeks to ensure that development reduces “the opportunities for criminal behaviour and contributes to a sense of security”. Policy 7.4 seeks to ensure that “buildings, streets and open spaces should provide a high quality design response that contributes to a positive relationship between the urban structure and natural landscape features”. Policy 7.5 seeks to ensure that “development should make the public realm comprehensible at a human scale”. Finally policy 7.6 seeks to ensure that “buildings and structures should be of the highest architectural quality”.
- 8.13 The Council’s Core Strategy policy SP10 seeks to “ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds”.
- 8.14 The Council’s Managing Development Document policy DM23 states that “development should be well-connected with the surrounding area and should be easily accessible for all people by: ensuring design of the public realm is integral to development proposals and takes into consideration the design of the surrounding public realm [and] incorporating the principles of inclusive design”. DM24 states that “development will be required to be designed to the highest quality standards, incorporating principles of good design, including: ensuring design is sensitive to and enhances the local character and setting of the development”.

## Layout and Scale



Site plan of the proposed mooring facility

- 8.15 The overall layout and scale of the proposed development, which has been amended by the applicant during the application process, has been designed in a way so as not to appear overly dominant nor significantly impact upon the predominantly open character of Millwall Outer Dock. In order to achieve these objectives the applicant has incorporated notable breaks/gaps in the mooring facility at either end and in the centre of the proposal as well as between the back of the facility and the existing dock wall, and any structures on both the pontoon and the dockside path have been kept to a minimum, both in quantum and scale.
- 8.16 A number of visuals have been presented by the applicant which demonstrate that the measures employed (as outlined above) to reduce as far as possible the impact of the proposal on the openness of Millwall Outer Dock are successful in this respect.



*View from the dockside path looking south*



*View from the dockside path looking north*

- 8.17 The proposed storage boxes on the pontoon which also house secure cycle parking facilities for each boat, along with the proposed refuse store at the southern end of the pontoon are only 1.5m in height, and due to the fact that the pontoon itself sits at a lower level than the dockside path, sit below the eye line of passers-by and do not obstruct views of the open dock beyond. The 5 x 3m high pontoon guides which will secure the proposed pontoon in place have a diameter of less than 0.5m and as such have a minimal impact on the open character of Millwall Outer Dock. The only structure proposed on the dockside path is the single entrance gate to the proposed moorings which is located away from the 3 cranes in order to minimise any impact upon them. Whilst the scale and nature of this structure is dictated by its functionality, which is to ensure that the development is secure, the applicant has made notable amendments to the entrance gate (since the initial submission) and re-designed it in such a manner as to reduce its impact on the dockside as far as possible, by keeping its height and scale to a minimum (3m in width, 2.4m in height and 2.25m in depth) and cladding the structure in perforated panels (as opposed to solid panels). In order to ensure that the finished entrance gate is of the highest quality, further details, such as samples of the proposed perforated cladding, will be required by condition.
- 8.18 The proposed mooring facility has been designed to accommodate boats of up to a maximum of 4.5m in width and 25m in length, however it is envisaged by the applicant that the proposed moorings will be taken up predominantly by narrow boats which are typically 2.1m wide and 22m long, supplemented by a mixture of shorter cruiser style vessels, wide beam canal vessels and varying sizes of Dutch barges. In order to prevent the eventuality of any larger vessels occupying the proposed moorings, which could in turn create a navigation issue, a condition restricting the size of boat allowed to be moored in this facility to 4.5m in width and 25m in length will be imposed should planning permission be granted.

Appearance

- 8.19 The proposed pontoon deck and finger pontoons are to be finished in a sand coloured anti-slip composite material, whilst the entrance gate, storage boxes and refuse store are to be clad in a mixture of undulating perforated and solid anodized aluminium panels which will add a degree of visual interest to the proposal for passers-by. The applicant is also intending to use a variety of low level lighting techniques after dark, which will shine through the perforations in the storage units creating further visual interest for passers-by in the evening.
- 8.20 The proposed material palette for the scheme, which has an industrial feel to it, is appropriate and robust, and will also complement both the existing character and heritage of the Docklands. Further details and physical samples of the proposed material palette, including the exact design of the perforated anodized aluminium panels, and details of the proposed lighting strategy for the site will be required by condition, and be subject to further review, in the event that planning permission is granted.

Secure by Design

- 8.21 The proposed mooring facility only has one means of access from the public realm, which is through the main access gate towards the southern end of the site. This entrance gate is proposed to be 3m in height and 6.6m in width, and is proposed to be finished in a perforated cladding.

- 8.22 The Metropolitan Police's Secure by Design officer had no in principle objections to the proposal and requested a pre-commencement Secure by Design condition to be imposed in the event that planning permission is granted, in order to ensure that the proposal fully complies with the principles and practices of the Secure by Design scheme.

#### Conclusion

- 8.23 The proposed design of the scheme is acceptable in terms of its layout, scale and appearance, as the proposal does not significantly impact upon the open character of Millwall Outer Dock, features a high quality material palette, and also has been designed in accordance with Secure by Design principles. As such officers can conclude that the application is acceptable in design terms.

#### **Amenity**

##### Policy Context

- 8.24 According to paragraph 17 of the NPPF local planning authorities should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.25 The Council's Core Strategy policy SP10 (4) seeks to ensure that development *"protects amenity, and promotes well-being (including preventing loss of privacy and access to daylight and sunlight)"*.
- 8.26 The Council's Managing Development Document policy DM25 states that *"development should seek to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm"*.

##### Impact on Neighbouring Amenity

- 8.27 The nearest residential properties to the site are located on the Glengall Bridge to the north, with the properties to the west (currently under construction) being used as a data centre, and the property to the south (3 Greenwich View Place) being used as a commercial office.
- 8.28 Given the nature and scale of the proposed development it is not considered that the proposal is likely to result in any notable adverse amenity implications for surrounding residents and building occupiers with respect to overlooking, outlook and daylight and sunlight. With respect to any adverse noise and odour implications generated by the development, such as from users (in reference to the former), and from the refuse store (in reference to the latter), a condition would be imposed to request a site management plan prior to the occupation of the mooring facility (in the event that planning permission is granted) to ensure that appropriate measures are put in place in order to minimise/negate any such impacts.

##### Amenity of Future Occupants

- 8.29 The surrounding area already features a number of residential properties and officers consider in principle that the application site is a suitable location for residential uses in terms of the level of amenity that future residents may be afforded. Whilst the exact nature of each individual residential boat to be moored on site is unknown, it is likely that future occupants will experience good levels of daylight and sunlight and

outlook, by virtue of the open setting of the site, and also will likely experience good levels of privacy due to the fact that the moorings themselves are notably offset from the dockside edge.

- 8.30 In terms of the level of noise generated within the immediately surrounding area, it is noted that a large data centre is currently under construction on the adjoining site at 1 and 2-4 Greenwich View Place, however conditions have been attached to the consents to ensure that any noise generated by said buildings does not exceed a level of 10dB below the lowest measured background noise from the nearest residential windows (likely to be within the Glengall Bridge which is in a similar proximity to the site of the data centre as the application site in question). Whilst canal boats / Dutch barges will not benefit from the same levels of noise insulation as traditional residential properties, it is still considered that the aforementioned conditions will ensure that any noise emitted from the adjoining site will not be at a level which would be incompatible with the proposed residential moorings.

### Conclusion

- 8.31 The proposal would not significantly adversely impact the amenity of surrounding residents and building occupiers, and would also likely afford future occupiers of the proposed residential moorings a suitable level of amenity, the proposed development can be seen to be in accordance with policy SP10 (4) of the Core Strategy (2010) and policy DM25 of the Managing Development Document (2013) and is thus acceptable in amenity terms.

## **Highways and Transportation**

### Policy Context

- 8.32 Policy 6.3 of the London Plan (2016) states that *“development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed. Development should not adversely affect safety on the transport network”*. Policy 6.9 states that *“developments should: provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum standards [...] and the guidance set out in the London Cycle Design Standards”*. Policy 6.13 states that *“in locations with high public transport accessibility, car-free developments should be promoted (while still providing for disabled people)”*. Finally policy 6.14 states that *“delivery and servicing plans [should be used] to minimise congestion impacts and improve safety [and that development proposals should] increase the use of the Blue Ribbon Network for freight transport”*.
- 8.33 The Council’s Core Strategy policy SP08 seeks to *“promote the sustainable transportation of freight by promoting and maximising the movement of freight by water and rail to take the load off the strategic road network”*. Policy SP09 seeks to *“ensure new development has no adverse impact on the safety and capacity of the road network [and promotes] car free developments and those schemes which minimise on-site and off-site car parking provision, particularly in areas with good access to public transport”*.
- 8.34 The Council’s Managing Development Document policy DM20 states that *“development will need to demonstrate it is properly integrated with the transport network and has no unacceptable impacts on the capacity and safety of the transport network or on any planned improvements and/or amendments to the transport network”*. Policy DM21 states that *“development that generates a significant number of vehicle trips for goods or materials during its construction and operational phases*

*will need to demonstrate how movement by water and/or rail, the use of low emission vehicles, electric vehicles and bicycles has been prioritised". Policy DM22 states that "in order to ensure suitable provision for cyclists, development will be required to: meet, and preferably exceed, the minimum standards for cycle parking".*

#### Highway Impact

- 8.35 In order to ensure that the proposed development does not have an adverse impact on the local highway network the proposed residential moorings will be required to be car free, and a condition requiring the applicant to enter into a legal agreement to secure the development as car free will be imposed in the event that planning permission is granted. As the development has good access to local walking and cycling routes and moderate access (PTAL 3) to the local public transport network, with Crossharbour DLR station being approximately a 5 minute walk from the site, it is envisaged that future residents have sufficient alternative options to private vehicular transport.
- 8.36 The applicant will also be required (by condition) to explore the feasibility of using the waterways for transporting goods during the construction phase of development, in order to reduce number of construction vehicles using the local highway network, and a construction management plan will also be conditioned to ensure that the construction process itself does not have any adverse impact on the local highway network or nearby pedestrian and cycle routes such as the dockside path.

#### Parking

- 8.37 In order to comply with the London Plan (2016) cycle parking standards a minimum of 16 cycle parking spaces are required to be provided for the proposed development, i.e. 1 space per mooring. The applicant has proposed to provide 1 dedicated cycle parking space per mooring within each of the 16 storage boxes on the access deck. These spaces will be under cover, secure and easily accessible, and further details of the proposed cycle parking will also be secured via condition. As such the proposal is acceptable in terms of parking provision as the development is to be car free and provides cycle parking in line with London Plan (2016) requirements.

#### Servicing

- 8.38 Due to the fact that the site has limited access which would preclude regular sized vehicles such as refuse lorries accessing the site, the applicant has proposed to establish an alternative means of servicing the site. Instead of Council refuse lorries collecting waste from site the applicant's facilities management company would collect waste from site twice weekly using a smaller vehicle which would access the site from Greenwich View Place. Similar arrangements to that being proposed on this site are already in place at other mooring facilities owned by the applicant and the applicant has also stated that both themselves and their contractors currently service refuse bins on the dockside walkway (adjacent to the application site) 3-5 times a week from Greenwich View Place.
- 8.39 Whilst access across Greenwich View Place to service this proposal has been disputed by an objector, the applicant has provided a copy of the 1991 head lease which states that the lessor must allow for the following:

*"The right at all times and for all purposes to place and maintain (and remove) moorings pontoons jetties structures and equipment of any nature on along and in*

*the dock walls adjacent to the Demised Premises and to pass and repass with or without vehicles (subject to such vehicular rights to be available for the purposes of maintenance and repair only) to obtain access to such boats vessels plant machinery moorings pontoons jetties structures and equipment over that part or parts of the Demised Premises as is shown hatched orange on Plan A or over and along such other route (if any) across the Demised Premises that is of an equivalent size and shall be approved by the Lessor from time to time such approval not to be unreasonably withheld.”*



*Plan A (as referred to in the previous paragraph)*

- 8.40 The applicant has also stated that in the unlikely event that a legal dispute does arise which precludes them access over Greenwich View Place, an alternative means of access via Muirfield Crescent/Pepper Street (to the north of the application site) could be established.
- 8.41 In light of the above officers are content that the proposed servicing strategy is acceptable and that the applicant has the necessary rights of way in place / alternative means of access to the application site. Further details of the servicing of the site will be requested via the site management plan which would form a condition of the consent.

#### Conclusion

- 8.42 The proposal would not have an adverse impact upon the local highway network, would provide appropriate cycle parking arrangements, and would be serviced in an appropriate manner, the proposal on balance is acceptable in transport and highways terms.

#### **Refuse**

#### Policy Context

- 8.43 Policy 5.17 of the London Plan (2016) states that development proposals should be *“minimising waste and achieving high reuse and recycling performance”*.
- 8.44 The Council’s Core Strategy policy SP05 (1) states that development should *“implement the waste management hierarchy of reduce, reuse and recycle”*.
- 8.45 The Council’s Managing Development Document policy DM14 (2) states that *“development should demonstrate how it will provide appropriate storage facilities for residual waste and recycling as a component element to implement the waste management hierarchy of reduce, reuse and recycle”*.

#### Assessment

- 8.46 In order for the proposed development to comply with LBTH waste standards the proposal should incorporate sufficient waste storage to accommodate up to 1600 litres of refuse and 960 litres of recyclables each week.
- 8.47 The applicant has proposed an enclosed refuse store at the southern end of the site on the pontoon structure which will accommodate 4 x 240 litre refuse bins and 2 x 240 litre recyclable bins meaning that 960 litres of refuse storage and 480 litres of recyclables storage is to be provided on site. The applicant has also stated that refuse collections for the proposed mooring will be twice weekly meaning that the refuse store effectively could cope with up to 1920 litres of refuse storage and 960 litres of recycling storage per week which is in excess of LBTH waste standards.
- 8.48 As the proposed refuse store will be enclosed and will be emptied on a twice weekly basis it is considered that any odours created by it are likely to be minimal and unlikely to have an adverse impact on adjoining occupiers. In order to ensure that all reasonable measures to reduce any odours from the proposed refuse store are employed by the applicant, further details of how the refuse store will be managed will be required as part of the site management plan which will be conditioned in the event that planning permission is granted.

#### Conclusion

- 8.49 The proposed refuse strategy for the site is acceptable as the refuse store is located in a suitable location, is of a suitable size and it has been designed with the Council’s waste management hierarchy of reduce, reuse and recycle in mind, in accordance with policy SP05 (1) of the Core Strategy (2010) and policy DM14 (2) of the Managing Development Document (2013).

### **Environmental Considerations**

#### Policy Context

- 8.50 Policy 2.18 of the London Plan (2016) states that *“development proposals should incorporate appropriate elements of green infrastructure that are integrated into the wider network including the Blue Ribbon Network”*. Policy 5.12 of the London Plan states that *“development proposals must comply with the flood risk assessment and management requirements set out in the NPPF”*. Policy 7.14 states that *“development proposals should be at least ‘air quality neutral’ and not lead to further deterioration of existing poor air quality”*. Finally Policy 7.19 states that *“development proposals should, wherever possible, make a positive contribution to the protection, enhancement, creation and management of biodiversity”*.



- 8.51 The Council's Core Strategy policy SP03 states that development proposal should *"minimise and mitigate the impact of noise and air pollution"*. SP04 states that the Council will *"promote and support new development that provides green roofs, green terraces and other measures to green the built environment"* and that *"all new development that has to be located in a high risk flood zone must demonstrate that it is safe [and] that all new development across the borough does not increase the risk and impact of flooding"*.
- 8.52 The Council's Managing Development Document policy DM9 states that *"minor development will be required to submit details outlining practices to prevent or reduce associated air pollution during construction or demolition"*. Policy DM11 states that *"development will be required to provide elements of a 'living building'"* and will be required to deliver *"biodiversity enhancements in accordance with the Council's Local Biodiversity Action Plan"*.

#### Air Quality

- 8.53 In order to ensure that the proposed development prevents and/or reduces associated air pollution during the construction process the applicant will be required to submit a construction management plan which demonstrates that all reasonable measures to prevent and/or reduce associated air pollution during the construction process has been undertaken.
- 8.54 In the event that planning permission is granted, a condition would be imposed which will restrict future users to using only smokeless fuels in stoves and heaters on their boats and will also require the applicant prior to the first occupation of the development to submit a site management plan which will contain measures and management strategies to ensure that this restriction is fully adhered to. With the addition of this condition and the restrictions that it would apply to the development, officers are content that the proposed development would be acceptable in air quality terms.

#### Biodiversity

- 8.55 The application site sits within the Millwall & West India Docks Site of Importance for Nature Conservation (SINC), and as part of this application the applicant has provided an ecological assessment which assesses the existing ecological value of the site and also proposes a number of recommendations which could lead to the site having an enhanced ecological value.
- 8.56 The Council's biodiversity officer is content that the proposed habitat enhancements being proposed as part of this application, which include floating reed beds between the pontoon and the dockside edge along with fish refuges beneath the pontoons, would both offset any adverse impact upon the SINC caused by the proposal and also increase the biodiversity value of the site which is welcomed by officers.
- 8.57 Subject to further details of the biodiversity enhancements proposed being secured by condition, officers are therefore content that the proposal is acceptable in biodiversity terms as it accords with relevant planning policy.

#### Flood Risk

- 8.58 The application site falls within Flood Risk Zone 3 of the Environment Agency (EA) map, where the annual probability of fluvial flooding is classified as greater than 1 in 100 and the annual probability of tidal flooding is classified as greater than 1 in 200.

Whilst Flood Risk Zone 3 represents an area with the highest level of flood risk, it should be noted that this area is well protected by the Thames Barrier.

- 8.59 The application is supported by a flood risk assessment which outlines that the proposal has been designed to allow for rising water levels in the event of a flood, as the entire mooring structure, including the access bridge and the structures on the pontoons themselves would rise or fall with changing water levels. This arrangement means that moored boats do not become lopsided or have strained fixings in the event of water levels rising in a flood, meaning that users of the proposed facility will be able to safely evacuate the moorings structure to dry land where they can seek refuge.
- 8.60 The Environment Agency have reviewed the proposal and have concluded that they have no objection to the proposal in flood risk terms. Given their stance and the fact that suitable measures have been designed into the scheme to allow for safe refuge officers are content that the proposal is acceptable in flood risk terms.

### Conclusion

- 8.61 The proposal is acceptable in air quality, biodiversity and flood risk terms and thus is considered to be in accordance with the relevant policies of the London Plan, Core Strategy (2010) and Managing Development Document (2013) as set out within the policy context section of this chapter.

## **9.0 FINANCIAL CONSIDERATIONS**

### Localism Act (amendment to S70(2) of the TCPA 1990)

- 9.1 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the relevant authority to grant planning permission on application to it. Section 70(2) requires that the authority shall have regard to:
- The provisions of the development plan, so far as material to the application;
  - Any local finance considerations, so far as material to the application; and,
  - Any other material consideration.
- 9.2 Section 70(4) defines “local finance consideration” as:
- A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
  - Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy
- 9.3 In this context “grants” might include New Homes Bonus. This is not applicable to this application.
- 9.4 As regards Community Infrastructure Levy considerations, Members are reminded that that the London mayoral CIL became operational from 1 April 2012 however as this proposal does include the creation of any new build floor space it is not liable for Mayoral CIL.
- 9.5 The Borough’s Community Infrastructure Levy came into force from 1st April 2015. The proposal would not be liable for Borough CIL as proposals for sui generis uses do not attract Borough CIL payments.

## **10.0 EQUALITIES ACT CONSIDERATIONS**

10.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs, gender and sexual orientation. It places the Council under a legal duty to have due regard to the advancement of equality in the exercise of its powers including planning powers. Officers have taken this into account in the assessment of the application and the Committee must be mindful of this duty inter alia when determining all planning applications. In particular the Committee must pay due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

## **11.0 HUMAN RIGHTS CONSIDERATIONS**

11.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:

11.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-

- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
- Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

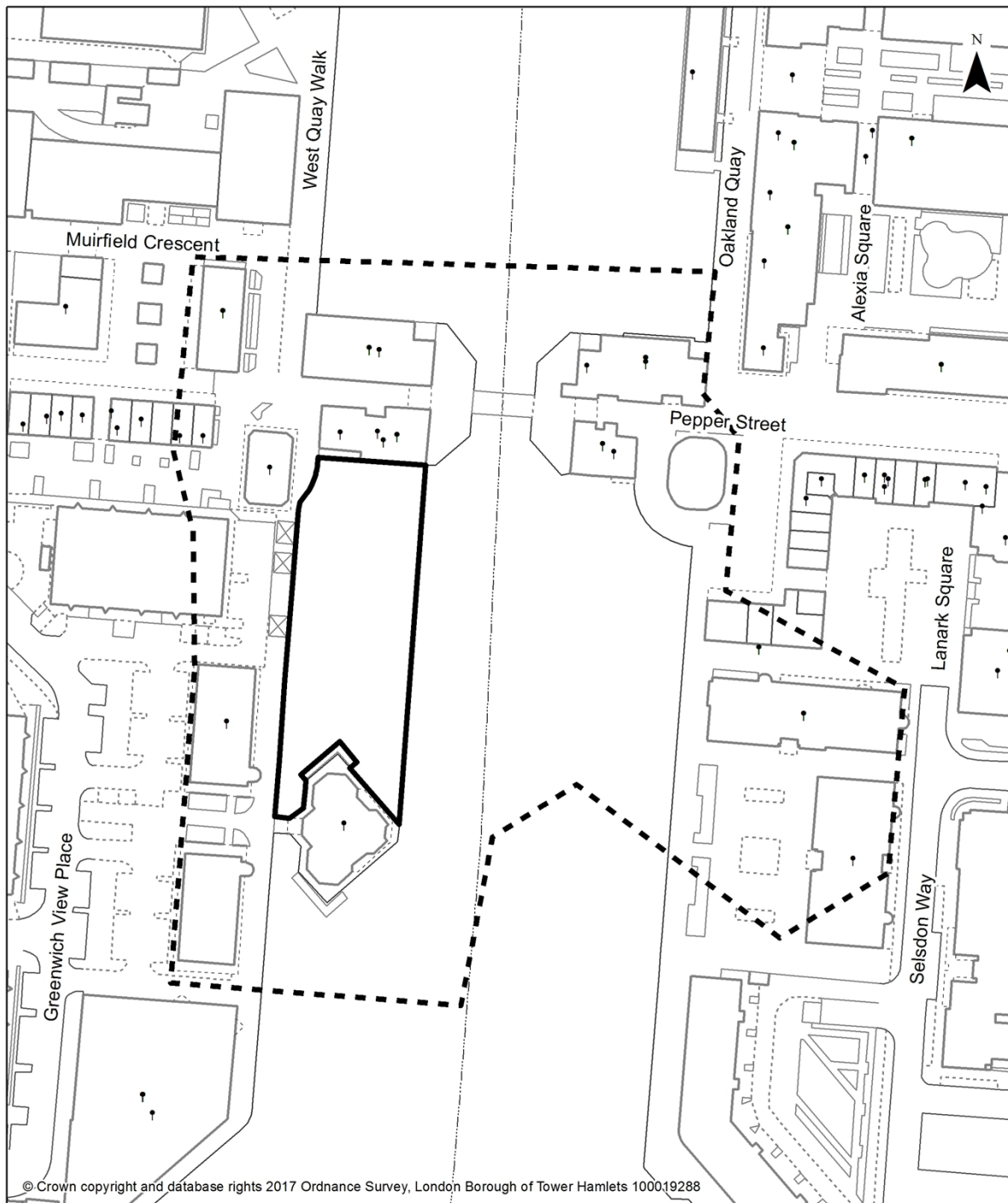
11.3 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.

- 11.4 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.
- 11.5 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 11.6 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.

## **12.0 CONCLUSION**

- 12.1 All other relevant policies and considerations have been taken into account. Planning permission should be GRANTED for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS section of this report.

# 13.0 SITE MAP



© Crown copyright and database rights 2017 Ordnance Survey, London Borough of Tower Hamlets 100019288

- ↑ Land Parcel Address
- Consultation Area
- ▭ Planning Application Site Boundary
- Statutory Listed Buildings
- Locally Listed Buildings

Scale @ 1:1,250  
 10 5 0 10 20 30 Meters

## Planning Application Site Map PA/16/01798

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.



GIS for  
Place Directorate  
LONDON BOROUGH OF TOWER HAMLETS  
Date: 20/03/2017



This page is intentionally left blank

# Agenda Item 6

<b>Committee:</b> Development	<b>Date:</b> 10 May 2017	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director Place		<b>Title:</b> Other Planning Matters	
<b>Originating Officer:</b>		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

- 1.1 In this part of the agenda are reports on planning matters other than planning applications for determination by the Committee. The following information and advice applies to all those reports.

## 2. FURTHER INFORMATION

- 2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda are available for inspection at the meeting.
- 2.2 Members are informed that any further letters of representation, petitions or other matters received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in an Addendum Update Report.

## 3. PUBLIC SPEAKING

- 3.1 The Council's Constitution only provides for public speaking rights for those applications being reported to Committee in the "Planning Applications for Decision" part of the agenda. Therefore reports that deal with planning matters other than applications for determination by the Council do not automatically attract public speaking rights.

## 4. RECOMMENDATION

- 4.1 That the Committee take any decisions recommended in the attached reports.

---

**LOCAL GOVERNMENT ACT 2000 (Section 97)**  
**LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 8**


Brief Description of background papers:  
See individual reports

Tick if copy supplied for register:  
✓

Name and telephone no. of holder:  
See individual reports

This page is intentionally left blank



Non-Executive Report of the:  <b>Development Committee</b>  5 <sup>th</sup> April 2017	
<b>Report of:</b> Graham White, Acting Corporate Director, Governance and Interim Monitoring Officer	<b>Classification:</b> Unrestricted
<b>Proposed Revised Planning Code of Conduct</b>	

<b>Originating Officer(s)</b>	Paul Greeno
<b>Wards affected</b>	All

### Summary

This report advises of a proposed revised Planning Code of Conduct at Part 5.2 of the Tower Hamlets Constitution

### Recommendations:

The Development Planning Committee is recommended to:

1. Note the revised Planning Code of Conduct in Appendix 1 of the report;
2. Note that pursuant to Part 1 Paragraph 4.02 of the Constitution the adoption and amendment of the revised Planning Code of Conduct is a matter for Council; and
3. Comment generally on the revised Planning Code of Conduct so that these comments can be reflected prior to the revised Code being put forward for adoption.

## **1. REASONS FOR THE DECISIONS**

- 1.1 Pursuant to the Local Government Act 2000 ('the 2000 Act') as the Council is operating Executive arrangements then it must have a Constitution and also ensure that this Constitution is kept up-to-date. Pursuant to Part 2 Article 15 of the Constitution it is a Monitoring Officer role to review the Constitution.
- 1.2 The Planning Code of Conduct is an important Constitutional document as it is part of the Council's ethical framework and is in addition to the Councillors' Code of Conduct adopted under the provisions of the Localism Act 2011.
- 1.3 Planning decisions involve balancing many competing interests and making an informed judgement against a local and national policy framework. In doing this, Councillors need to make decisions having regard to the wider public interest on what can sometimes be controversial proposals. The provisions of this Code are designed to ensure that planning decisions are taken with sound judgement and for justifiable reasons, in a fair consistent and open manner and that Councillors making such decisions are perceived as being accountable for those decisions.

## **2. ALTERNATIVE OPTIONS**

- 2.1 The Council can decide not to adopt a revised Policy.

## **3. DETAILS OF REPORT**

- 3.1 Pursuant to the Local Government Act 2000 ('the 2000 Act') as the Council is operating Executive arrangements then it must have a Constitution and also ensure that this Constitution is kept up-to-date. Pursuant to Part 2 Article 15 of the Constitution it is a Monitoring Officer role to review the Constitution.
- 3.2 The Planning Code of Conduct is an important Constitutional document as it is part of the Council's ethical framework and is in addition to the Councillors' Code of Conduct adopted under the provisions of the Localism Act 2011.
- 3.3 Planning decisions involve balancing many competing interests and making an informed judgement against a local and national policy framework. In doing this, Councillors need to make decisions having regard to the wider public interest on what can sometimes be controversial proposals. The provisions of this Code are designed to ensure that planning decisions are taken with sound judgement and for justifiable reasons, in a fair consistent and open manner and that Councillors making such decisions are perceived as being accountable for those decisions.
- 3.4 The Code is also designed to assist Councillors in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.

- 3.5 This Code applies to Councillors at all times that they are involved in the planning process. This would include, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 3.6 Appendix 1 contains the revised proposed Code. Reasons for suggesting changes to the current Code of Conduct fall into 4 categories:
- (i) Changes that bring the Code up to date in terms of legislative context, the organisational structure of the Council and/or current terminology;
  - (ii) Improvements to achieve better consistency with other documents in terms of content and style and structure;
  - (iii) The addition of information/explanation to aide understanding;
  - (iv) Material changes to the Code that will require members and/or officers to conduct themselves differently than under the existing Code
- 3.7 Changes relating to (i) and (ii) above have been made to all sections of the document and, as they are not material, have not been singled out.
- 3.8 Changes to sections relating to categories (iii) and (iv) above are identified in Table 1 for each code as it was felt that these changes in particular should be brought to members attention.
- 3.9 The revised Code has been discussed with Planning Officers.
- 3.10 On 23<sup>rd</sup> March 2016, a report on the Planning Code of Conduct was discussed at the Strategic Development Committee and a result of the discussion at that meeting changes have been made to section 7 Lobbying and Section 9 Site Visits.
- 3.11 The changes to lobbying are to make it clearer that there is no problem with lobbying per se but it is important that Councillors who are lobbied follow the principles laid out within the Code and that where it is Councillors doing the lobbying that they do not seek to attempt to persuade or put pressure on the Councillor that they should vote in a particular way.
- 3.12 The changes to site visits is to recognise that whilst Councillors can make comments and ask appropriate questions during the site visit they should avoid expressing opinions which can cause the perception of bias or predetermination. Further Councillors shall not make a decision whilst on site.

#### **4. COMMENTS OF THE CHIEF FINANCE OFFICER**

- 4.1 There are no financial implications arising from the recommendations within this report.

## **5. LEGAL COMMENTS**

- 5.1 Any legal implications are addressed in the body of the report.

## **6. ONE TOWER HAMLETS CONSIDERATIONS**

- 6.1 The provisions of the revised Planning Code are designed to ensure that planning decisions are taken on proper planning grounds; in a fair consistent and open manner; and that Councillors making such decisions are, and are perceived as being, accountable for those decisions. The Code is also designed to assist Councillors in dealing with and recording approaches from applicants, developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved. In implementing the Code, Members will ensure that decisions are taken for planning reasons only and should help to achieve the objectives of equality and personal responsibility inherent in One Tower Hamlets.

## **7. BEST VALUE (BV) IMPLICATIONS**

- 7.1 The report does not propose any direct expenditure. Rather, it is concerned with ensuring that planning decisions are taken on proper planning grounds; in a fair consistent and open manner; and that Councillors making such decisions are, and are perceived as being, accountable for those decisions. Whilst this might not lead to fewer appeals, the implementation of the Code should result in a much decreased chance of success on such appeals and which should reduce cost implications for the Council on any such appeals.

## **8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT**

- 8.1 It is not considered that there are any environmental implications if this revised Code is ultimately adopted.

## **9. RISK MANAGEMENT IMPLICATIONS**

- 9.1 The provisions of the revised Planning Code are designed to ensure that planning decisions are taken on proper planning grounds; in a fair consistent and open manner; and that Councillors making such decisions are, and are perceived as being, accountable for those decisions. The overall aim is therefore to reduce risk.

## **10. CRIME AND DISORDER REDUCTION IMPLICATIONS**

- 10.1 In considering Planning applications, the Council has to have regard to Crime and Disorder and by ensuring that planning decisions are taken on proper planning grounds this should reduce assist reduce crime and disorder.

---

## **Linked Reports, Appendices and Background Documents**

### **Linked Report**

- None.

### **Appendices**

- Table 1 - Changed sections and reason for change
- Appendix 1 - Proposed Revised Planning Code of Conduct.

### **Local Government Act, 1972 Section 100D (As amended)**

#### **List of “Background Papers” used in the preparation of this report**

List any background documents not already in the public domain including officer contact information.

- None.

### **Officer contact details for documents:**

- N/A

Table 1: Changed sections and reason for change

	Changes to improve quality/clarity of information or explanation		Material changes to the Code affecting members and / or officers	
	Current Version	Proposed New Version	Current Version	Proposed New Version
<b>Planning Code</b>	1. Introduction  4. Contact with Applicants, Developers and objectors 7. Pre-application discussions 8. Post-submission application discussions  5. Lobbying of Councillors 6. Lobbying By Councillors  9. Site Visits  11. Relationship between Members and Officers  12. Applications submitted by members, officers and the Council  13. Decision Making	1. Introduction  8. Pre-meetings, presentations and briefing sessions  7. Lobbying  9. Site Visits  10. Relationship between Members and Officers  5. Application by a Member or Officer 6. Application by the Council  13. Decision Making	2. Development of proposals and interests under the members Code of Conduct  3. Pre-determination in the planning process  14. Training  15. Appendix 1- Council Guidelines for determining planning applications	3. Interests  4. Predisposition, pre-determination or bias  2. Training of Councillors  Appendix 1- Council Guidelines for determining planning applications  10. The Role of the Executive  11. Conduct at the committee  14. Record Keeping  Appendix 2 – Do's and Do Not's



This page is intentionally left blank



## 5.2 Planning Code of Conduct

### CONTENTS

Section	Subject
1	Introduction
2	Predisposition, Predetermination, or Bias
3	Interests
4	Training of Councillors
5	Application by a Councillor or an Officer
6	Application by the Council
7	Lobbying
8	Pre-meetings, Presentations and Briefing Sessions
9	Site Visits
10	The Role of the Executive
11	Relationship between Councillors and Officers
12	Conduct at the Committee
13	Decision making
14	Record keeping
<b>Appendix</b>	
A	Council guidelines for determining planning applications
B	Do's and Do Not's

#### 1. INTRODUCTION

- 1.1 The Planning Code of Practice has been adopted by Tower Hamlets Council to regulate the performance of its planning functions. Its major objectives are to guide Councillors and officers of the Council in dealing with planning related matters and to inform potential developers and the public generally

of the standards adopted by the Council in the exercise of its planning powers.

- 1.2** The Planning Code of Conduct is in addition to the Code of Conduct for Members adopted under the provisions of the Localism Act 2011. Councillors should follow the requirements of the Code of Conduct for Members and apply this Code in light of that Code. The purpose of this Code is to provide more detailed guidance on the standards to be applied specifically in relation to planning matters.
- 1.3** Planning decisions involve balancing many competing interests and making an informed judgement against a local and national policy framework. In doing this, Councillors need to make decisions having regard to the wider public interest on what can sometimes be controversial proposals. The provisions of this Code are designed to ensure that planning decisions are taken with sound judgement and for justifiable reasons, in a fair consistent and open manner and that Councillors making such decisions are perceived as being accountable for those decisions. The Code is also designed to assist Councillors in dealing with and recording approaches from developers and objectors and is intended to ensure that the integrity of the decision-making process is preserved.
- 1.4** This Code applies to Councillors at all times that they are involved in the planning process. This would include, where applicable, when part of decision making meetings of the Council in exercising the functions of the Planning Authority or when involved on less formal occasions, such as meetings with officers or the public and consultative meetings. It applies as equally to planning enforcement matters or site specific policy issues as it does to planning applications.
- 1.5** This Code is part of the Council's ethical framework and in addition to the Code of Conduct for Members should be read in conjunction with the Member/Officer Protocol. If a Councillor does not abide by the Code then that Councillor may put the Council at risk of proceedings on the legality or maladministration of the related decision and the Councillor may be at risk of either being named in a report to the Standards Advisory Committee or Council. A failure to abide by the Code is also likely to be a breach of the Code of Conduct for Members and which could result in a complaint being made to the Monitoring Officer.
- 1.6** **If a Councillor has any doubts about the application of this Code to their own circumstances they should seek advice early, from the Monitoring Officer and preferably well before any meeting takes place.**

## 2. PREDISPOSITION, PREDETERMINATION OR BIAS

- 2.1 Section 25 of the Localism Act 2011 ('the 2011 Act') provides that a Councillor should not be regarded as having a closed mind simply because they previously did or said something that, directly or indirectly, indicated what view they might take in relation to any particular matter. This reflects the common law position that a Councillor may be predisposed on a matter before it comes to Committee, provided they remain open to listening to all the arguments and changing their mind in light of all the information presented at the meeting. Nevertheless, a Councillor in this position will always be judged against an objective test of whether the reasonable onlooker, with knowledge of the relevant facts, would consider that the Councillor was biased.
- 2.2 As to predetermination, this is a legal concept and is used in situations where a decision maker either has, or appears to have, a closed mind. That is s/he has made up his/her mind in advance of proper consideration of an issue and the merits of an application. Section 25 of the 2011 Act does not amount to the abolition of the concept of predetermination however, as no one should decide a case where they are not impartial or seen to be impartial. Critically, Councillors need to avoid any appearance of bias or of having a predetermined view before taking a decision. Indeed, Councillors should not take a decision on a matter when they are actually biased in favour or against the application, or where it might appear to a fair and informed observer that there was a real possibility of bias, or where a Councillor has predetermined the matter by closing his/her mind to the merits of the decision.
- 2.3 Any planning decision made by a Councillor who can be shown to have approached the decision with a closed mind will expose the Council to the risk of legal challenge.
- 2.4 Clearly expressing an intention to vote in a particular way before a meeting (predetermination) is different from where a Councillor makes it clear they are willing to listen to all the considerations presented at the committee before deciding on how to vote (predisposition).
- 2.5 If a Councillor considers that s/he does have a bias or cannot be impartial then they **must** withdraw from considering that application.
- 2.6 Councillors should note that, unless they have a disclosable pecuniary interest or a significant personal interest (see section 3 below), they will not appear to be predetermined through-
- listening or receiving viewpoints from residents or other interested parties;
  - making comments to residents, interested parties, other Councillors or appropriate officers, provided they do not consist of or amount to

prejudging the issue and the Councillor makes clear that they are keeping an open mind;

- seeking information through appropriate channels; or
- being a vehicle for the expression of opinion or speaking at the meeting as a Ward Councillor, provided the Councillor explains their actions at the start of the meeting or item and makes it clear that, having expressed the opinion or ward/local view, they have not committed themselves to vote in accordance with those views and will make up their own mind having heard all the facts and listened to the debate.

**2.7** The following advice applies:

- Councillors must not make up their mind, or appear to have made up their mind on how they will vote on any planning matter prior to formal consideration of the matter at the meeting of the Committee and of the Councillor hearing the officer's presentation and evidence and arguments on both sides. This includes deciding or discussing how to vote on any application at any sort of political group meeting, or lobby any other Councillor to do so. If a Councillor has an interest in a local lobby group or charity or pressure group they may appear predetermined by their actions and/ or statements made in the past. The Councillor should take advice from the Legal Adviser to the Committee on how to deal with this.
- It must be noted that if a Councillor is predetermined then taking part in the decision will put the Council at risk of a finding of maladministration and of legal proceedings on the grounds of there being a danger of bias or predetermination or, a failure to take into account all of the factors enabling the proposal to be considered on its merits.
- A Councillor may appear pre-determined where the Council is the landowner, developer or applicant and the Councillor has acted as, or could be perceived as being, a chief advocate for the proposal. This would amount to more than a matter of membership of both the Cabinet and Development Committee, but that through the Councillor's significant personal involvement in preparing or advocating the proposal the Councillor will be, or perceived by the public as being, no longer able to act impartially or to determine the proposal purely on its planning merits. (See Section 6 below for guidance on applications submitted by the Council).
- Councillors should recognise that in being a Councillor of a political group they are allowed to be predisposed in relation to planning policies of the Council or to planning policies of the Councillor's political party, providing that predisposition does not give rise to a public perception that the Councillor has due to his/ her political

membership predetermined a particular matter. (See Section 7 below relating to Lobbying).

- When considering a planning application or any other planning matter Councillors must:
  - act fairly and openly;
  - approach each planning issue with an open mind; carefully weigh up all relevant issues; and
  - determine each item on its own planning merits
  
- And Councillors must not:
  - take into account irrelevant issues;
  - behave in a manner that may give rise to a public perception that s/he may have predetermined the item; and
  - behave in such a manner which may give rise to a public perception that s/he may have been unduly influenced in reaching a decision.

### **3. INTERESTS**

**3.1** In order to avoid allegations of bias it is important that Councillors are scrupulous in declaring interests at the meeting.

**3.2** Chapter 7 of the 2011 Act places requirements on councillors regarding the registration and disclosure of their pecuniary interests ('DPI') and the consequences for a councillor taking part in consideration of an issue in the light of those interests. The definitions of DPI taken from the Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012 are set out in paragraph 5.1 of the Members' Code of Conduct. A Councillor must provide the Monitoring Officer with written details of relevant interests within 28 days of their election or appointment to office. Any changes to those interests must similarly be notified within 28 days of the Councillor becoming aware of such changes. A failure to register or declare a DPI or the provision of false or misleading information on registration, or participation in discussion or voting in a meeting on a matter in which a Councillor has a DPI, are criminal offences.

**3.3** A DPI relating to an item under discussion requires the immediate withdrawal of the Councillor from the Committee. In certain circumstances, a dispensation can be sought from the Monitoring Officer to take part in that particular item of business and which could arise where the Councillor is the applicant or has made a representation for or against the application.

**3.4** Having regard to the requirement that a Councillor who has an interest in an application must be disqualified from considering it, then consideration must

also be given to personal interests. A personal interest in a matter arises if a Councillor anticipates that a decision on it might reasonably be regarded as affecting (to a greater extent than other council tax payers, ratepayers or residents of the Council's area) the well-being or financial position of the Councillor, a relative or a friend or

- the employment or business carried out by those persons, or in which they might be investors (above a certain level)
- any of the bodies with which the Councillor is associated, and which the Councillor will have registered in the register of interests.

**3.5** If a Councillor has a personal interest in any planning then the Councillor shall, if present, disclose the existence and nature of the interest at the start of the meeting and, in any event, before the matter is discussed or as soon as it becomes apparent. The full nature of the interest must be declared. If, in accordance with the Members' Code of Conduct, the interest is 'sensitive', the Councillor must disclose to the meeting that s/he has an interest that is sensitive but need not disclose the nature of the interest or any other sensitive information. The declaration and disclosure of a personal interest does not usually debar a Councillor from participation in the discussion provided that the personal interest is not so significant that there is a real possibility of bias or predetermination and which is likely to prejudice the Councillor's judgement of the public interest (see 3.6 below).

**3.6** The position is different however where a member of the public, with knowledge of the relevant facts, would reasonably regard the personal interest as so significant that there is a real possibility of bias or predetermination and which is likely to prejudice the Councillor's judgement of the public interest. Examples of this are the Councillor is working closely with a developer or a group of objectors to achieve a certain outcome; lobbying other Councillors on the Committee; acting as an agent for a person pursuing a planning matter with the Council; or generally declaring voting intentions ahead of the meeting etc.

**3.7** A Councillor with a personal interest which might appear to a fair and informed observer that there was a real possibility of bias must not participate in the discussion on the application and must leave the room immediately when the discussion on the item begins or as soon as the interest becomes apparent. S/he cannot seek to influence the decision, save that if a member of the public has the right to attend the meeting, make representations, answer questions etc., then a Councillor will have the same right. Once the Councillor has exercised that right then the Councillor must withdraw from the room for the rest of that item and play no further part in the discussion or vote.

**3.8** Being a Councillor for the ward in which particular premises is situated is not necessarily declarable and as a general rule Councillors of the Committee may deliberate on matters affecting their wards provided they do so with an open mind. Councillors should remember, however, that their overriding duty is to the whole community not just to the residents and businesses within their ward. Councillors have a duty to make decisions impartially, and should not improperly favour, or appear to improperly favour, any person, company, group or locality. If a Councillor feels that they must make representations for their ward then the Councillor can declare this and make representations but must then leave before the debate and vote.

**3.9** More information on what constitutes an interest as well as the obligation on Councillors to register their interests is contained in the Code of Conduct for Members set out in Part 5.1 of the Constitution. The ultimate responsibility for fulfilling these requirements rests with individual Councillors but the Council's Monitoring Officer or the Divisional Director Legal are available to give advice if required.

#### **4. TRAINING OF COUNCILLORS**

**4.1** As the technical and propriety issues associated with planning are not straightforward, Councillors who sit on either the Development Committee or the Strategic Development Committee must participate in a programme of training on the planning system and related matters agreed by and organised by officers. The programme will consist of compulsory and discretionary elements. If a Councillor fails to participate in the compulsory elements of the training this may result in that Councillor being asked to stand down as a Councillor of relevant Committee.

**4.2** Councillors should be aware that training is particularly important for those who are new to the Development Committee and for Councillors who have not attended training in the recent past. Other Councillors are free to attend the training in order to gain an understanding of planning issues.

**4.3** The compulsory training programme will cover issues relating to probity in planning, principles in planning to reflect government guidance and case law. Discretionary training will seek to extend Councillors' knowledge of planning law, regulations, procedures, Codes of Practice, Development Plans and best practice. The aim of the training is to assist Councillors in carrying out their role properly and effectively.

**4.4** Where a Councillor has a genuine difficulty in attending any particular training session officers will try, when practicable, to accommodate a request for an individual or repeat session.

## **5. APPLICATION BY A COUNCILLOR OR OFFICER**

5.1 Councillors may need to determine an application submitted by a Councillor or an officer, or by a company or individual with which a Councillor or officer has an interest or relationship. For the avoidance of doubt, the term Councillor or an officer includes any former Councillors or officers. In such cases, it is vital to ensure that such application is handled in a way that gives no grounds for accusations or favouritism. Accordingly the matter will be dealt with as follows-

- (a) The matter will be referred to the Corporate Director, Development and Renewal, who shall decide whether or not the application should be referred to the relevant Committee, or determined under delegated powers, if the application is in accordance with development plans and all other material planning considerations.
- (b) On receipt of such an application, the Corporate Director, Development and Renewal will pass a copy of the application to the Monitoring Officer who will satisfy himself/herself that the application can be, and is being, processed and determined without suspicion or impropriety.
- (c) If a Councillor or an officer submit their own proposal to the Council which they serve, they must take no part in its processing or the decision making process.
- (d) The Councillor making the application would almost certainly have a DPI and should not address the Committee as the applicant but should appoint an independent agent to represent his/her views.
- (e) Councillors of the Committee must consider whether the nature of any relationship with the person (either a Councillor or an officer) applying for planning permission requires that they make a declaration of interest and if necessary also withdraw from the meeting.
- (f) In respect of former Councillors or former officers the above requirements shall apply for a period of three (3) years following their departure from the Council.

## **6. APPLICATION BY THE COUNCIL**

6.1 Councillors may need to determine an application submitted by the Council for the Council's own development. It is perfectly legitimate for such proposals to be submitted to and determined by the Local Planning Authority. Proposals for such development should be treated with the same transparency and impartiality as those of private developers so as not to give rise to suspicions of impropriety.

6.2 If a Councillor has been heavily committed or involved in an area of policy/issue relating to such an application (e.g. as a Cabinet Member), then that Councillor must consider whether they have an interest which should be



disclosed. In such circumstances, the Councillor should seek advice from the Legal Adviser to the Committee

## **7. LOBBYING**

**7.1** Lobbying is the process by which applicants and their agents, objectors, non-Committee Councillors and other interested parties seek to persuade Councillors who sit on the Committee to come to a particular decision. It is a legitimate part of the planning process for them to approach Councillors who sit on Committee as these discussions can help Members to understand the issues and concerns. This can happen prior to an application being made or at any time after the application is made.

**7.2** Whilst lobbying is a normal and perfectly proper part of the political process, it can cause the perception of bias or predetermination especially when a Councillor must enter the meeting with an open mind and make an impartial determination on the relative merits based on all the evidence presented at the meeting. To avoid such perception if a Councillor is approached s/he should following the principles set out in section 2.6 of this Code and also:

- (a) explain the potentially conflicting position they are in if they express a final opinion on a proposal before consideration at the Committee;
- (b) explain the procedures by which representations can be made;
- (c) explain the kinds of planning issues that the Council can take into account;
- (d) inform the person making the approach that such approach should be made to officers within the Place Directorate or to elected Councillors who are not Councillors of the either the Development Committee or Strategic Development Committee;
- (e) forthwith notify in writing to the Monitoring Officer the fact that such an approach has been made, identifying the application, the nature of the approach, by whom it was made, and the action taken by the Councillor concerned. This should include any offers made of planning gain or constraint of development, through a proposed section 106 Planning Obligation or otherwise; and
- (f) keep an adequate written record so as to enable the Councillor to disclose the fact and nature of such an approach at any relevant meeting of the Committee.

**7.3** If the Councillor does discuss the case then in no circumstances should a Councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would be unfair and detrimental. As stated in 7.2(c) above, the Councillor must keep an adequate written record of the discussion so as to enable the Councillor to disclose the fact and

nature of such an approach at any relevant meeting of the Development Committee.

- 7.4 Councillors should not accept gifts or hospitality from any person involved in or affected by a planning proposal. If a degree of hospitality is entirely unavoidable, then the Councillor must comply with the provisions in the Code of Conduct for Members on Gifts and Hospitality.
- 7.5 Councillors should not become a member of, lead or represent a national charity or local organisation whose primary purpose is to lobby to promote or oppose planning proposals. If a Councillor does then it is likely to appear to a fair and informed observer that there is a real possibility of bias and that Councillor will be required to withdraw from the debate and decision on that matter.
- 7.6 Where Councillors contact fellow Councillors regarding their concerns or views they must not seek to attempt to persuade or put pressure on the Councillor that they should vote in a particular way.
- 7.7 In no circumstances should a Councillor give an indication of voting intentions or otherwise enter into an unconditional commitment to oppose or support the application. To do so without all relevant information and views would be unfair and detrimental.
- 7.8 Where a Committee member feels that s/he has been unreasonably or excessively lobbied on a particular proposal s/he must make a declaration at the Committee on that application that s/he has been lobbied. Provided that member has followed the principles in this Code then s/he will still be able to speak and vote on the application.

## **8. PRE-MEETINGS, PRESENTATIONS AND BRIEFING SESSIONS**

- 8.1 Councillors should avoid agreeing to any formal meeting with applicants, developers or groups of objectors. If a Councillor considers that a formal meeting would be useful in clarifying the issues, then the Councillor should not seek to personally arrange such a meeting but should request the Divisional Director Planning and Building Control to organise it. If such a meeting takes place it will be properly recorded on the application file and a record of the meeting will be disclosed when the application is considered by the Committee.
- 8.2 If a Councillor does arrange a private meeting with an applicant, developer, agent or objector then this must be declared at the Development Committee meeting by the Councillor. As in Section 7.2(c) above, the Councillor should keep an adequate written record of the meeting. This record should then be referred to the Divisional Director Planning and Building Control to organise it

so that it will be properly recorded on the application file and a record of the meeting will be disclosed when the application is considered by the Committee.

- 8.3** Where there is to be a presentation by applicants/ developers, Councillors should not attend unless it has been organised by an officer. If a Councillor does attend a presentation not organised by officers then the Councillor must inform the Divisional Director Planning and Building Control that s/he has done so. The Councillor should keep an adequate written record of the presentation. This record should then be referred to the Divisional Director Planning and Building Control to organise it so that it will be properly recorded on the application file and a record of the meeting will be disclosed when the application is considered by the Committee.
- 8.4** When Councillors attend presentations, they should ask relevant questions to clarify their understanding of the proposal. Councillors should be mindful, however, that the presentation is not part of the formal process of debate and determination of any subsequent application and that this will be carried out by the appropriate Development Committee.
- 8.5** Councillors should bear in mind that a presentation is a form of lobbying and they must not express any strong view or state how they or other Councillors might vote. Further Councillors are reminded that if they do attend a presentation then any hospitality or gifts received over the value of £25.00 must be disclosed and registered in the normal way.
- 8.6** Public meetings are sometimes organised as part of the Council's pre-application process (contained in the Council's Planning tool kit). All Councillors are encouraged to participate in such pre-application discussions.
- 8.7** Further where briefing sessions (generally for major applications) have been arranged (by officers) for Councillors following submission of an application then Councillors should attend these sessions as it will give them an opportunity to better understand the Council's planning policies and its economic objectives.
- 8.8** Councillors should note that the Code of Conduct of Member and this Code apply to any of the above meetings, presentations or briefing sessions and that at any subsequent Committee considering the application that Councillors must disclose attendance at any such meetings and/ or presentations.

## **9. SITE VISITS**

- 9.1** Site visits by Councillors determining schemes are an essential part of determining a planning application. It is good practice for Councillors to visit

an application site before a meeting, so that they can familiarise with the site or surrounding area and Councillors should try to attend the pre-Committee site visits organised by officers. A site visit may also assist Councillors in matters relating to the context of the application and the characteristics of surrounding area. Whilst Councillors can make comments and ask appropriate questions during the site visit they should avoid expressing opinions which can cause the perception of bias or predetermination. Further Councillors shall not make a decision whilst on site. Councillors can, of course, rely upon their own local knowledge.

- 9.2** During site visits, Councillors of the Planning Committees shall not engage individually in discussion with applicants or objectors.
- 9.3** On site visits applicants, developers, objectors or other interested parties who attend shall only be permitted to point out to Councillors features to look at either on the site or in the vicinity, which are relevant to the application. No discussion will take place on the merits of the application.
- 9.4** Should it is not possible for a Councillor to attend an organised site visit and a Councillor then carries out a site visit on their own, the guidelines below apply-
- The Councillor must notify the Divisional Director Planning and Building Control of the intention to visit (which will be recorded on the file).
  - The Councillor must carry out the visit discreetly and the Councillor must not make himself/ herself known to the applicants or neighbours.
  - The Councillor must treat the site visit as an opportunity to seek information and to observe the site only. The Councillor must not use the site visit as or allow it to become an impromptu lobbying opportunity for the applicant or objectors.
  - Councillors should not hear representations from the applicant or any other party and the Councillor shall have regard to the provisions on Lobbying in Section 7 above, and advise them that they may make representations in writing to the Council and direct them to relevant officers.
  - Councillors must not express opinions or views on the application to anyone as this may lead to an allegation of apparent bias or pre-determination.
  - Councillors should note that the Code of Conduct for Members and this Code apply to any such visit.
- 9.5** As in Section 7.2(c) above, the Councillor should keep an adequate written record of the site visit, including any new information gained from such visit. This record should then be referred to the Divisional Director Planning and Building Control to organise it so that it will be properly recorded on the

application file and a record of the meeting will be disclosed when the application is considered by the Committee.

- 9.6** Once the application has reached the determination stage, Councillors should not request a site visit unless the Councillor considers that it is really necessary, and the Committee may decide to revisit the site where particular site factors are significant in terms of the weight attached and it would be difficult in the absence of a site visit to assess the application or there are significant policy or precedent implications and specific site factors need to be carefully addressed.

## **10. THE ROLE OF THE EXECUTIVE**

10.1 The Executive consists of 10 people, namely the Mayor and 9 Councillors. Each of the 9 Councillors has a specific Portfolio and one of those Portfolios is Strategic Development. The Mayor is responsible for most decisions about day-to-day Council services but this excludes the regulatory council functions such as planning.

10.2 Councillors on the Planning Committees have specific responsibility for planning. However, planning is important to all Councillors and can help deliver other local objectives. Further, planning takes account of wider, long-term public interests including the environment, economic growth and prosperity, a cohesive and empowered society, good health and wellbeing, enhancement of heritage, conservation, local culture and community identity.

10.3 The Executive therefore has an interest in Strategic Planning: hence the Member of the Executive with the Strategic Development portfolio. As such, the Mayor, the lead Member and other Members of the Executive may be approached regarding or become involved in planning applications. This is perfectly acceptable but where the Mayor, the lead Member or other Members of the Executive are approached or become involved then this Code of Conduct also applies to them, particularly paragraphs 6, 7, 8 and 10. Further, they should not attend the pre-Committee site visits organised by officers unless they sit on the Planning Committee.

10.4 Additionally, Councillors of the Executive should not meet to discuss how to vote on any application at any sort of political group meeting, or lobby any other Councillor to do so.

## **11. RELATIONSHIP BETWEEN COUNCILLORS AND OFFICERS**

**11.1** Councillors shall not attempt in any way to influence the terms of the officers' reports upon any application including a particular recommendation.

Officers are advising Councillors. They must give impartial policy advice on planning considerations and the recommendations as set out in the report without seeking to persuade Councillors. (This does not prevent a Councillor from asking questions or submitting views to the Divisional Director Planning and Building Control, which may be incorporated into any Committee report).

- 11.2** Any criticism by Councillors of an officer in relation to the handing of any application should be made in writing to the Corporate Director, Development and Renewal and/ or the Monitoring Officer rather than to the Officer handling the application.
- 11.3** If any officer feels or suspects that pressure is being exerted upon him/her by any Councillor in relation to any particular application, s/he shall forthwith notify the matter in writing to the Monitoring Officer.
- 11.4** If any officer of the Council who is involved in dealing with any application has had any involvement with an applicant, developer or objector, whether or not in connection with the particular application being determined, which could possibly lead an observer with knowledge of all the relevant facts to suppose that there might be any possibility that the involvement could affect the officer's judgement in any way, then that officer shall declare this interest in the public register held by the Monitoring Officer and take no part. This public register is to be available for inspection at the Development Committee meeting.
- 11.5** No officer of the Council shall engage in any paid work for any planning matter for which Tower Hamlets is the Planning Authority other than on behalf of the Council.

## **12. CONDUCT AT THE COMMITTEE**

- 12.1** Councillors must not only act fairly but must also be seen to act fairly. Councillors must follow agreed procedures at all times and should only ask questions at the appropriate points in the procedure. At no time should a Councillor express a view which could be seen as pre-judging the outcome. During the course of the meeting Councillors should not discuss (or appear to discuss) aspects of the case with the applicant, a developer, an objector, their respective advisers or any member of the public nor should they accept letters or documents from anyone other than an officer from Democratic Services or the Legal Advisor to the Committee.
- 12.2** Councillors of the Committee shall refrain from personal abuse and party-political considerations shall play no part in the Committee's deliberations. Councillors shall be respectful to the Chair and to each other and to officers and members of the public including applicants, developers, objectors and their representatives and shall not bully any person.

- 12.3** When asking questions at a meeting, Councillors shall ensure that their questions relate only to planning considerations relevant to the particular application.
- 12.4** The Committee must ensure that they hear the evidence and arguments for and against the application and approach each planning issue with an open mind.
- 12.5** If a Councillor arrives late for a meeting, s/he will not be able to participate in any item or application already under discussion. Similarly, if a Councillor has to leave the meeting for any length of time, s/he will not be able to participate in the deliberation or vote on the item or application under discussion at the time of their absence. If a Councillor needs to leave the room, s/he should ask the Chair for a short adjournment
- 12.6** It is permissible for the Chair of the meeting to curtail statements of parties if they are merely repeating matters which have already been said.
- 12.7** In considering the application, Councillors are advised that if objections are founded on a demonstrable misunderstanding of the true factual position, or otherwise indicate no more than an uninformed reaction to a proposal then such carry no weight whatever and must be ignored. Further Councillors are advised that the mere number of objections irrespective of their content can never be a good reason for refusing an application. What matters are the grounds on which such are based.

### **13. DECISION MAKING**

- 13.1** When a report goes before the Committee rather than being determined through officer delegation, the reasons why will be set out in the report to the Committee.
- 13.2** Councillors must come to meetings with an open mind and in accordance with section 38(6) of the Planning and Compulsory Purchase Act 2007 and section 70(2) of the Town and Country Planning Act 1990, Councillors must make decisions in accordance with the Development plan unless material considerations indicate otherwise. Attached at Appendix A' are the Council's Guidelines for determining planning applications.
- 13.3** Councillors should only come to their decision after due consideration of all of the relevant information reasonably required upon which to base a decision. If it is considered that there is insufficient time to digest new information or that there is simply insufficient information before Councillors then Councillors can request that further information be provided and, if necessary, defer or refuse the application.

- 13.4** Councillors must not take part in the meeting's discussion on a proposal unless they have been present to hear the entire debate, including the officers' introduction to the matter. If an application has previously been deferred then the same Councillors will be asked to reconsider the application when it is returned to Committee.
- 13.5** Where Councillors take a decision to defer any proposal then the reasons for Committee's decision must be given and recorded.
- 13.6** When a Councillor is proposing, seconding or supporting a decision contrary to officer recommendations or the Development Plan then s/he must clearly identify and understand the planning reasons leading to this conclusion/decision. These reasons must be given prior to the vote and be recorded. The Councillor must be aware that s/he may have to justify the resulting decision by giving evidence in Court or at Enquiry in the event of any challenge.
- 13.7** Prior to deciding the matter before the Committee, Councillors must consider the advice that planning, legal or other officers give to the Committee with respect to the recommendation or any proposed amendment to it.
- 13.8** **At the end of the day, Councillors must bear in mind that they are involved in planning matters to represent the interests of the whole community and must maintain an open mind when considering planning applications. When Councillors take decisions on planning applications they must do so in accordance with the development plan unless material considerations indicate otherwise. Councillors must only take into account material planning considerations, which can include public views where they relate to relevant planning matters. Local opposition or support for a proposal is not in itself a ground for refusing or granting planning permission, unless it is founded upon valid material planning reasons.**

#### **14. RECORD KEEPING**

- 14.1** In order that planning applications are processed properly and that any complaints can be fully investigated, record keeping will be complete and accurate. Every planning application file will contain an accurate account of events throughout its life, particularly the outcomes of meetings, significant telephone conversations and any declarations of interests by Councillors. Records will be kept in accordance with the Council's Information Governance Framework and, specifically, the Council's Records Management Policy.



**COUNCIL GUIDELINES FOR DETERMINING PLANNING APPLICATIONS**  
**APPLICATIONS UNDER THE TOWN & COUNTRY PLANNING**  
**ACT 1990**

- ( i )           The emphasis in determining applications is upon a plan led system. Section 38(6) of the Planning and Compulsory Purchase Act 2004 and section 70(2) of the Town and Country Planning Act 1990 requires all planning applications to be determined in accordance with the Development Plan (comprised of the London Plan (produced by the Mayor of London), Local Plan and Neighbourhood Plans (should any be adopted)) and any other material considerations. If the Development Plan is material to the application then the statutory position is that the application **must** be determined in accordance with the Development Plan unless material considerations indicate otherwise.
- ( ii )           The term "other material considerations" has a wide connotation as expressed by the following judicial comment:-  
***".....I find it impossible, however, to accept the view that such considerations are limited to matters relating to amenity.....it seems to me that any consideration which relates to the use and development of land is capable of being a planning consideration"***.
- ( iii )           Material considerations include national planning guidance in the form of Government Circulars, Planning Policy Guidance Notes, Non-Statutory Development Control Guidelines and case law. A ministerial statement may be a material consideration.
- ( iv )           Material considerations can include (but are not limited to):-
- ( a )    Local, strategic, national planning policies and policies in the Development Plan;
  - ( b )    Emerging new plans which have already been through at least one stage of public consultation;
  - ( c )    Government and Planning Inspectorate requirements - circulars, orders, statutory instruments, guidance and advice;
  - ( d )    Previous appeal decisions and planning Inquiry reports;
  - ( e )    Principles of Case Law held through the Courts;
  - ( f )    Loss of sunlight (based on Building Research Establishment guidance);
  - ( g )    Overshadowing/loss of outlook to the detriment of residential amenity (though not loss of view as such);
  - ( h )    Overlooking and loss of privacy;
  - ( i )    Highway issues: traffic generation, vehicular access, highway safety;
  - ( j )    Noise or disturbance resulting from use, including proposed hours of operation;
  - ( k )    Smells and fumes;
  - ( l )    Capacity of physical infrastructure, e.g. in the public drainage or water systems;
  - ( m )    Deficiencies in social facilities, e.g. spaces in schools;

- (n) Storage & handling of hazardous materials and development of contaminated land;
- (o) Loss or effect on trees;
- (p) Adverse impact on nature conservation interests & biodiversity opportunities;
- (q) Effect on listed buildings and conservation areas;
- (r) Incompatible or unacceptable uses;
- (s) Local financial considerations offered as a contribution or grant;
- (t) Layout and density of building design, visual appearance and finishing materials;
- (u) Inadequate or inappropriate landscaping or means of enclosure; and
- (v) Disabled persons access.

(v) Matters which are not material considerations again can include (but are not limited to):-

- (a) Matters controlled under building regulations or other non-planning legislation e.g. structural stability, drainage details, fire precautions, matters covered by licences etc.;
- (b) Private issues between neighbours e.g. land/boundary disputes, damage to property, private rights of access, covenants, ancient and other rights to light etc.;
- (c) Problems arising from the construction period of any works, e.g. noise, dust, construction vehicles, hours of working (covered by Control of Pollution Acts);
- (d) Opposition to the principle of development when this has been settled by an outline planning permission or appeal;
- (e) Applicant's personal circumstances (unless exceptionally and clearly relevant, e.g. provision of facilities for someone with a physical disability – see (vi) below);
- (f) Previously made objections/representations regarding another site or application;
- (g) Factual misrepresentation of the proposal;
- (h) Opposition to business competition;
- (i) Loss of property value;
- (j) Loss of view; and
- (k) Personal remarks (e.g. the applicant's motives).

(vi) The personal circumstances of an applicant for planning permission are not generally a material consideration because they do not relate to the character or use of the land. However, in exceptional circumstances they may outweigh other material planning considerations. Where this is the case, specific and valid reasons must be given to justify the exception.

(vii) What constitutes a material consideration is a matter of law. The weight to be attached to the consideration is a matter of planning judgement for the decision-maker having regard to the planning evidence.

- (viii) It is essential to consider thoroughly any advice given by a statutory consultee or relevant Government Department, including views expressed by English Heritage or the Environment Agency.
- (ix) The view of local residents are relevant when determining a planning application, but it must be recognised that such opposition cannot be a reason in itself for refusing or granting planning permission unless founded on valid planning reasons, which are supported by substantial evidence.
- (x) Account should be taken of previous Council decisions, appeal decisions in relation to the site, or other related appeal decisions.
- (xi) It is not permissible to prevent, inhibit or delay development which could reasonably be permitted.
- (xii) Planning Conditions should only be imposed for a planning purpose and not for any ulterior one. They must fairly and reasonably relate to the development. Thus it is essential to avoid conditions which are unnecessary, unreasonable, unenforceable, imprecise or irrelevant.

DRAFT

**DO'S AND DO NOT'S**

**1. Councillors must:**

- (a) Attend compulsory training sessions;
- (b) Be open minded and impartial;
- (c) Declare any actual interest;
- (d) Act solely in the public interest;
- (e) Listen to the arguments for and against;
- (f) Carefully weigh up all relevant issues;
- (g) Ask questions that relate only to planning considerations relevant to the particular application;
- (h) Make decisions on merit and on material planning considerations only;
- (i) Respect the impartiality and integrity of the Council's officers;
- (j) Report any lobbying from applicants, agents, objectors or any other Councillor;
- (k) Promote and support the highest standards of conduct; and
- (l) Promote equality and not discriminate unlawfully against any person, and treat all people with respect;

**2. Councillors must not:**

- (a) Be biased or give the impression of being biased;
- (b) Improperly confer an advantage or disadvantage on any person nor seek to do so;
- (c) Act to gain financial or other benefit for themselves, their family, friends or close associates;
- (d) Place themselves under a financial or other obligation to any individual or organisation that might seek to influence the performance of their duties as a Councillor (e.g. by accepting gifts or hospitality from any person involved in or affected by a planning proposal);
- (e) Place themselves in a position where their integrity might reasonably be questioned;
- (f) Participate in a meeting where they have a DPI;
- (g) Participate in a meeting where they have an interest which does or could be reasonably considered as giving rise to bias; and
- (h) Express opinions during site visits to any person present, including other Councillors.