

Committee: Strategic Development	Date: 15 th April 2009	Classification: Unrestricted	Agenda Item No: 6.1
Additional Report of: Corporate Director of Development and Renewal		Title: Application for planning permission	
Case Officer: Stephen Irvine		Ref: PA/08/2292	
		Ward: Millwall	

1. APPLICATION DETAILS

Location: 443-451 Westferry Road, E14.

Existing use: Vacant former engineering works and ancillary offices.

Proposal: Erection of six buildings from 2 to 8 storeys in height to provide 189 residential units, with provision of basement and surface car parking, associated servicing and landscaping, together with incidental works.

The application for planning permission is accompanied by an Environmental Impact Assessment pursuant to the Town And Country Planning (Environmental Impact Assessment) Regulations 1999.

Drawing Nos: (PL)002, (PL)003, (PL)004, (PL)005, (PL)006, (PL) 007, (PL)008, (PL)100, (PL)011, (PL)020, (PL)021, (PL)030, (PL)031, (PL) 032, (PL)033, (PL)034, (PL)040, (PL)041, (PL)042, (PL)043, (PL)044 and (PL)045.

Environmental Statement Volumes 1, 2 & 3 with Non-Technical Summary and Additional Regulation 19 Information.

Design and Access Statement.

Access Strategy – Supplementary Information.

Energy Statement.

Statement of Community Involvement.

Affordable Housing Statement and Economic Appraisal.

Landscape Report.

Applicant: Glenkerrin (UK) Limited

Owner: Glenkerrin (UK) Limited

Historic buildings: N/A

LOCAL GOVERNMENT ACT 2000 (Section 97) LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT

Brief Description of background paper:	Tick if copy supplied for register	Name and telephone no. of holder
Application case file, plans, adopted UDP, London Plan, emerging LDF and Isle of Dogs AAP		Development Control 020 7364 5338

Conservation area: Chapel House Conservation Area adjoins.

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1. The local planning authority has considered the particular circumstances of the application against the Council's approved planning policies contained in the Tower Hamlets Unitary Development Plan 1998, the Council's interim planning guidance 2007, associated supplementary planning guidance, The London Plan 2008 and Government Planning Policy Guidance and has found that:

- The provision of residential accommodation on the Island Point site is supported by policy 3A.1 and 5G.3 of the London Plan, accords with the Proposals Map of the Council's interim planning guidance 2007 and policies IOD25 and IOD26 of the Council's Isle of Dogs Action Area Plan interim planning guidance 2007 that seek to increase London's supply of housing
- The density of the scheme would not result in the overdevelopment of the site and any of the problems typically associated with overdevelopment. As such, the scheme is in line with policy 3A.3 of The London Plan 2008, policies DEV1 and DEV2 of the Council's Unitary Development Plan 1998 and policies DEV1 and DEV2 of the Council's Interim planning guidance 2007 which seek to provide an acceptable standard of development throughout the borough.
- The new buildings in terms of height, scale, design and appearance are acceptable in line with national advice in PPG15, policies 4B.1, 4B.8, 4B.10, 4B.11, 4B.12 and 4B.14 of The London Plan 2008, policies DEV1 and DEV2 of the Council's Unitary Development Plan 1998 and policies CP49, DEV1, DEV2 and CON2 of the Council's interim planning guidance 2007 which seek to ensure development is of a high quality design and preserve or enhance the character and appearance of conservation areas.
- Considered with the parallel redevelopment of the City Pride site, 15 Westferry Road (Ref. PA/08/2293) and taking account of the submitted Affordable Housing Statement and Economic Appraisal, the provision of 41.5% affordable housing across the two sites with a tenure comprising a minimum of 71% social rented and 29% intermediate housing and up to an 80:20 split, broadly complies with The London Plan policies 3A.9, 3A.10 and policies CP22, HSG3 and HSG4 of the Council's interim planning guidance 2007.
- Considered with the parallel redevelopment of the City Pride site, 15 Westferry Road (Ref. PA/08/2293), the proposed residential mix across the two sites would be satisfactory as an exception to policy HSG2 of the Council's interim planning guidance 2007.
- Transport matters, including vehicular and cycle parking, vehicular and pedestrian access and servicing arrangements are acceptable and in line

with policy T16 of the Council's Unitary Development Plan 1998 and policies DEV16, DEV17, DEV18 and DEV19 of the Council's interim planning guidance 2007, which seek to ensure developments can be supported within the existing transport infrastructure.

- Sustainability and renewable energy matters are appropriately addressed in line with policies 4A.7 – 4A.9 of the London Plan and DEV5 – 9 and DEV 11 of the Council's interim planning guidance 2007, which seek to ensure developments reduce carbon emissions and result in sustainable development through design measures, water quality, conservation, sustainable drainage, sustainable construction materials, air pollution and air quality.
- Contributions have been secured towards the provision of highway and public transport improvements, community and open space provision, education provision and health care together with the implementation of travel plans in line with Circular 05/2005, policies 3B.3 and 5G3 of The London Plan 2008, policy DEV4 of the Council's Unitary Development Plan 1998 and policy IMP1 of the Council's interim planning guidance 2007, which seek to secure contributions toward infrastructure and services required to facilitate development.
- The submitted Environmental Impact Assessment supplemented by Additional Information is satisfactory, including the cumulative impact of the development, with mitigation and safeguarding measures to be implemented through conditions and a recommended legal agreement.

3. RECOMMENDATIONS

3.1. 1. That the Committee resolves to **GRANT** planning permission subject to:

- A. Any direction by The Mayor of London.
- B. The prior completion of a legal agreement, to the satisfaction of the Chief Legal Officer, to secure the following:
 - (a) To provide a minimum of 41.5% of the residential accommodation across both the City Pride, 15 Westferry Road and Island Point (443-451 Westferry Road) sites as affordable housing measured by habitable rooms with a tenure split of 71% social rented and 29% intermediate housing.
 - (b) An additional £1,869,759.50 over and above the 41.5% affordable housing provision, to convert some of the intermediate housing at Island Point into social rented housing up to a 80:20 social rented : intermediate housing split dependent on housing grant.
 - (c) A mechanism to ensure that the affordable housing at the Island Point site is provided prior to the completion of the on-site market housing at both sites.
 - (d) A £133,400 **Bus Network Contribution** comprising £113,400 to fund

improvements to local bus services and £20,000 to fund the upgrading of bus stops.

(e) To fund and implement a **Transport Plan** comprising:

- The submission and implementation of a residential travel plan, a delivery service plan and a construction logistics plan.
- To establish and maintain a residents car club.
- To provide, install and maintain DAISY board(s) to provide driver and transport information.
- Car free arrangements that prohibit residents of the development other than disabled people from purchasing on street parking permits from the borough council.

(f) A **Community and Open Space Contribution** of £630,178 to help fund open space improvements, leisure facilities and Library / Idea Store facilities on the Isle of Dogs.

(g) A **Highway Improvement Works Contribution** of £240,000.

(h) An **Education Contribution** of £654,126.

(i) To participate in the Council's Access to Employment and / or Skillsmatch programmes.

(j) To make a **Healthcare contribution** of £367,689 to help fund the capital programme of the Tower Hamlets Primary Care Trust.

(k) Any other planning obligation considered necessary by the Corporate Director Development & Renewal.

3.2 That the Corporate Director Development & Renewal is delegated authority to negotiate the legal agreement indicated above.

3.3. That the Head of Development Decisions is delegated power to issue the planning permission and impose conditions (and informatives) to secure the following:

3.4. **Conditions**

1. 3 year time limit.
2. Facing materials (including samples) to be approved.
3. Details of a landscaping scheme to include hard and soft finishes, any gates, walls and fences, including the treatment of the perimeter wall to property in Chapel House Street and Locksfield Place together with external lighting to be submitted and approved.
4. Approved landscaping scheme to be implemented.
5. Details of green roofs (to include a habitat for Black Redstarts) and bat roosts shall be submitted approved and implemented.
6. Details of acoustic glazing and ventilation for the buildings fronting

- Westferry Road adequate to protect residents from Noise Exposure Category C shall be submitted approved and implemented.
7. Prior to the commencement of the relevant works of the development, the developer shall submit the following details to be approved in writing by the local planning authority;
 - (a) Energy efficiency and passive design measures including the façade U-values.
 - (b) Specification on whether cooling is required in the apartments, the steps taken to minimise this requirement and the methods for providing this cooling through sustainable energy measures.
 - (c) The details of the CHP system and the arrangements in place for selling of the electricity.
 - (d) The details of the biomass boiler.
 - (e) Evidence of the financial viability of the roof top PV system.
 - (f) A schematic drawing of the plant room.
 8. In accordance with the proposals made in the Energy Strategy dated June 2008, the approved low carbon and renewable energy technologies shall be implemented and retained for so long as the development shall exist except to the extent approved in writing by the local planning authority.
 9. Prior to the commencement of the relevant works of the development the applicant shall submit the details to be approved in writing by the local planning authority of the Code for Sustainable Homes Pre-Assessment demonstrating the residential units of the development are capable of achieving a minimum of Code Level 3 and Code Level 4 where possible.
 10. Prior to the occupation of the development, the applicant shall submit the details to be approved in writing by the local planning authority of the Final Code for Sustainable Homes Assessment showing the residential units achieve Code Level 3 as a minimum and Code Level 4 where possible which is verified by the awarding body.
 11. The approved details of the sustainable design and construction measures shall be implemented and retained for so long as the development shall exist except to the extent approved in writing by the local planning authority.
 12. The development shall be carried out in accordance with the Flood Risk Assessment Ref. WCL36823 (ES) 001 Rev A 05 dated October 2008.
 13. There shall be no infiltration of surface water drainage into the ground other than with the express written consent of the local planning authority.
 14. No piling or other foundation design using penetrative methods shall be undertaken other than with the express written consent of the local planning authority. The development shall be carried out in accordance with the approved details.
 15. Decontamination of the site.
 16. 10 stands within the cycle stand provision within the stores at ground level providing space shall be allocated for 20 visitor's bicycles.
 17. Hours of construction time limits (08.00 to 18.00) Monday to Friday, 08.00 to 13.00 Saturdays and not at all on Sundays or Bank Holidays.
 18. Piling hours of operation time limits (10.00 to 16.00 Mondays to Fridays, 10.00 to 13.00 Saturdays) and not at all on Sundays or Bank Holidays.
 19. The development authorised by this permission shall not commence until

the Council (as local planning authority and the highway authority) has approved in writing a scheme of highway improvements necessary to serve the development being alterations to the adopted length of Westferry Road.

20. Amending condition ensuring the provision of a further 56 units that contain a separate kitchen.
21. Before any development (including demolition) is undertaken, a further survey of the site to determine the existence of any protected species shall be undertaken and the results of the survey have been approved in writing by the local planning authority. The survey shall be undertaken between April and October outside the hibernation period of bats. Should the survey confirm the existence of protected species on the site, no development (including demolition) shall take place until proposed mitigation measures to ensure the protection of the protected species have been submitted to and approved in writing by the local planning authority. The approved mitigation shall be fully implemented and retained thereafter unless alternative measures are approved in writing by the local planning authority.
22. Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal.

3.5. **Informatives**

1. Planning permission subject to section 106 agreement.
2. Planning permission under section 57 only.
3. Wheel cleaning facilities during construction.
4. Consultation with the Council's Department of Traffic and Transportation regarding alterations to the public highway and Condition 19 that will necessitate an agreement under section 278 of the Highways Act.
5. You should consult the Environment Agency, 30-34 Albert Embankment, London SE1 7TL (Ref. TL/2008/101631/02-L02) regarding the recovery, treatment and disposal of contaminated soils, drainage details (Condition 13) and the design of the foundations of the building (Condition 14).
6. You are advised that bats are a species protected under the provisions of the Wildlife and Countryside Act 1981 and The Habitats Regulations 1994 (European Protected Animal Species). It is a criminal offence to:
 - a. Deliberately capture, injure or kill a bat
 - b. Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats
 - c. Damage or destroy a bat roosting place (even if bats are not occupying the roost at the time)
 - d. Intentionally or recklessly obstruct access to a bat roostShould the presence of bats be identified at the site you should inform in writing both the local planning authority and Natural England, 6th Floor, Ashdown House, 123 Victoria Street, London SW1 6DE.
7. Any other informative(s) considered necessary by the Corporate Director Development & Renewal.

4. **ADDITIONAL CONSULTATION RESPONSES**

4.1. Since the consideration of the original and addendum reports by the Committee on 19th February 2009 (Appendices 1 & 2), the following additional representations have been received:

Greater London Authority (GLA)

4.2. Following a meeting between officers of the GLA, the applicant and Council officers, the GLA wrote to the applicant on 13th March 2009. The Authority noted that their earlier letter of 12th February 2009 suggested there:

“Might be additional value in the scheme, which could be used to provide additional affordable housing”.

4.3. In response to the GLA’s contention, the applicant submitted:

- An alternative use value for the City Pride site;
- A note responding to Atis Real’s assessment of the Affordable Housing Toolkit and;
- A covering letter, which explains that there is no additional value across the two sites

4.4. Having reviewed this information, by letter 13th March 2009, GLA officers concluded that the £17 million deficit shown in the applicant’s Housing Toolkit is not additional value, which can be drawn upon to provide more affordable housing, but the worst-case scenario for the applicant who is hoping to reduce this deficit as the housing market stabilises. As such, the offer of 40% affordable housing across both sites represents the maximum reasonable amount.

4.5. The report to Committee on 19th February recommended a Head of Agreement with the developer for a £75,000 contribution to Transport for London (TfL) to allow the funding of a bicycle hire station. This has been deleted from Head (e) in the recommendation above as on 1st April 2009, TfL advised:

- The first phase of the cycle hire project is contained within an area largely consistent with Zone 1 - for LBTH, the City Fringe area.
- No developer funding is being sought for the rollout of the first phase.
- Where sites are consistent with the first phase, safeguarding land only may be required.

Depending on the outcome of Phase 1 there may be a possible expansion of the scheme, however there is no remit or business case for rolling out the scheme on the Isle of Dogs. As it is remote from any of the Phase 1 locations, TfL does not see the justification for seeking £75,000 in this instance.

Further neighbour comments

4.6. Following the reports to the Committee on 19th February 2009, a further 11 representations have been received from local residents. These comprise:

- 6 letters of objection and
- 5 letters of support.

4.7. Objecting

The objections raised the following issues:

- Density.
- Tenure imbalance due to the trade-off between the City Pride and Island Point sites.
- The provision of the majority of the affordable housing at Island Point would not be financially neutral.
- The architecture and height of the development would fail to respect the Chapel House Conservation Area. The blocks are too large, in particular the 8-storey buildings C and E being out of scale (2-storeys too high).
- Loss of daylight to adjoining properties.
- Potential security and policing problems due to handover by the developer to an unknown entity.
- Unsatisfactory location of rubbish bins.
- Adverse effect on the amenity of residents including loss of privacy to housing in Chapel House Street.
- The pedestrian access to Julian Place would be detrimental to the peacefulness of the street and the security of existing residents.
- No nursery or secondary school places available on the Isle of Dogs.
- Inconsistencies in the applicant's affordable housing toolkit.

These issues have been mostly previously considered in the Corporate Director of Development and Renewal's original report and Addendum Update Report which are both appended to this item. The affordable housing would be managed by a registered social landlord and no management difficulties in terms of security and policing are envisaged. The applicant's affordable housing toolkit is discussed further below.

4.8. Supporting

The following points were made by neighbours in support of the development:

- There is a critical need for family sized homes in the area.
- Half the site would not be built on providing a good setting for family homes.
- Affordable housing will address housing need in the area and take many people off waiting lists;
- Good quality affordable housing is proposed and should be supported;
- The proposal represents an excellent development of a site that is currently derelict and an eyesore.
- Island Point is a good location for family homes being in a quiet area near to schools, parks, transport links and a supermarket.

These issues were also considered in the Corporate Director of Development and Renewal's original report and the Addendum Update Report.

- 4.9. The petition reported to the Committee on 19th February 2009 in the Addendum Update report has now been resubmitted with 141 signatures in support, with 30 more signatures added since February.
- 4.10. An additional representation has been received from Lockes Field Management Company Limited regarding bats. It is reported by two residents living on the eastern boundary with Island Point (i.e. on Lockesfield Place) that bats have been sighted. One neighbour reported bats flying overhead coming from the direction of Island Point, the second reported bats coming into her garden and roosting there. Observing the direction the bats are coming from, residents believe that the bats are roosting in the derelict buildings on Island Point. The Council has adopted the protection of bats through its bio-diversity policy. Bat populations have declined in London and they are a species identified to receive a high level of protection. LBTH must by law undertake a study to identify whether there is indeed a bat presence on Island Point. Bats will now be coming out of hibernation and the optimum time to undertake a study is from mid to late May. If a study reveals bats to be present on Island Point, the applicant will need to modify their plans to make them "bat friendly".

5. ADDITIONAL MATERIAL PLANNING CONSIDERATIONS

Background

- 5.1 This application was originally considered by the Strategic Development Committee at its meeting on 19th February 2009. Members heard speakers both for and against the scheme, received a presentation by officers and also had a report by the Corporate Director of Development and Renewal together with an Addendum Update Report to consider. Both the original reports are appended to this item.
- 5.2 Following discussions, the Committee resolved, on a vote of 8 for with 1 abstention, that the matter should be deferred for consideration at the next meeting of the Committee. This was to enable further information to be provided on the Affordable Housing Statement and Economic Appraisal (Housing Toolkit) that accompanies the application. On the advice of the Service Head Development Decisions, a parallel application (PA/08/2293) involving the redevelopment of the City Pride Public House, 15 Westferry Road was withdrawn from the Committee agenda as the two items are linked in terms of affordable housing provision. The report by the Corporate Director of Development and Renewal on the application affecting the City Pride is now included elsewhere on this agenda.

Housing Toolkit

- 5.3. As advised in the Corporate Director of Development and Renewal's original report, the applicant's housing toolkit has been assessed by the Council's independent advisors (Atis Real). Atis Real were asked to consider the applicant's toolkit and also suggest, using figures suggested by officers and from their own valuation experience, what was the maximum level of affordable housing that the joint scheme could produce.

- 5.4. Atis Real concluded that the development could viably provide 40% affordable housing by habitable rooms.
- 5.5. However, the GLA, whilst acknowledging that the affordable housing provision was a good offer over both sites, suggested that there:
- “Might be additional value in the scheme, which could be used to provide additional affordable housing”.*
- 5.6. Council officers and their valuation advisors could see no justification for the GLA’s view. Nevertheless, in response to the GLA’s contention and the Members questions on this subject, the applicant submitted:
- An alternative use value for the City Pride site;
 - A note responding to Atis Real's assessment of the toolkit and;
 - A covering letter, which explains that there is no additional value across the two sites.
- 5.7. Having reviewed this additional information, by letter 13th March 2009, the GLA concluded that the £17 million deficit shown in the Housing Toolkit is not additional value, which can be drawn upon to provide more affordable housing, but the worst-case scenario for the applicant who is hoping to reduce this deficit as the housing market stabilises. As such, they concluded that the offer of 40% affordable housing across both sites represents the maximum reasonable amount that could be provided.

Revisions to the scheme

- 5.8. Whilst the talks with the GLA continued, the applicant took the opportunity to consider the provision of separate kitchens within the Island Point development.
- 5.9. The submitted scheme already includes separate kitchens within the proposed 20 townhouses. However, the majority of the proposed apartments are designed to incorporate an open plan kitchen and living / dining room, to allow the most flexibility of the internal layouts of the units. These ‘multi purpose’ rooms have been designed to be of such a size that they could be divided up and occupied in a manner to suit the lifestyles of the tenants. The units have been designed to exceed the minimum space standards outlined in the Council’s planning guidance. Furthermore, the GLA has recognised that the development will provide a good standard of accommodation for families.
- 5.10. The applicant has undertaken a study to ascertain which units at Island Point could be altered to incorporate a separate kitchen. Of the total number of family units (101 three, four and five-bed units), 56 could be configured to provide a separate kitchen. This comprises 55% of the family units.
- 5.11. The provision of these separate kitchens would result in the creation of 45 additional habitable rooms (kitchens over 13 sq m in size are defined as habitable rooms in the Council’s Unitary Development Plan). This would increase the total number of affordable habitable rooms to 750 (across both

sites) and result in an increase in the amount of affordable housing being provided to 41.5% calculated by habitable rooms. This is shown in the table below:

5.12. Percentage of affordable housing with amended separate kitchen layouts.

Site	Total Habitable Rooms	Habitable Rooms Affordable	Affordable Housing Provision
City Pride	1043	50	5%
Island Point	764	700	91.6%
Total	1807	750	41.5%

5.13. Across both sites, the amended proposals with separate kitchens would result in a 71:29 ratio of social rent to intermediate housing by habitable rooms. The calculation based on habitable rooms would comply with policy 3A.9 of The London Plan.

5.14. In addition, the applicant has indicated a willingness to alter the rented/intermediate split of the 41.5% affordable housing offer (if allied to a grant cascade mechanism) by funding the conversion from intermediate housing to social rent of 21 units (66 habitable rooms) within Block A of Island Point. This would alter the rented/intermediate split of the affordable component for the two sites to 80:20. The additional cost to the developer of transferring the tenure of these units would be £1,869,759.50.

5.15. Alternatively, should the local planning authority prefer, then the tenure balance could remain as currently specified and the £1,869,759.50 could be transferred to the Council as a payment in lieu of on-site provision, and be used to deliver additional affordable housing elsewhere in the borough.

5.16. In summary, the applicant's affordable housing offer is as follows:

- The base affordable housing offer across the two sites is 41.5% affordable housing (71% social rented and 29% intermediate). Should a no grant position be preferred, this figure reduces to 40%. 40 % is the level that has been verified by the GLA.
- The applicant has also offered an additional monetary contribution of £1.869,759.50 over and above the 41.5 % provision which could be used to convert some of the intermediate housing at Island Point into social rented units. Alternatively, the £1.8 million may be used by LBTH to secure additional social rented units elsewhere within the borough. The target tenure balance as a consequence of this increased offer would be 80% social rented and 20% intermediate. This is the applicant's "enhanced position".
- The "enhanced position" is contingent upon securing appropriate levels of Housing Grant. A cascade arrangement in the section 106 agreement would exist, but only between the "enhanced £1.8 million

offer” and “the base 41.5 % offer” (i.e. cascading down from an 80 % social rented and 20 % intermediate provision to the 71 % social rented and 29 % intermediate position). The base condition would be secure. The applicant says that the advantage of the enhanced offer, with cascade, is that ultimately more social rented housing could be provided than the economic appraisal allows for.

Conclusion on Affordable Housing

- 5.17. Based on the amended proposals with separate kitchens, the recommendation to Committee has been altered to propose an affordable housing percentage of 41.5% and up to £1.869,759.50 to convert some of intermediate housing at Island Point to social rented housing up to an 80:20 split. An additional amending condition is also recommended to ensure the 56 separate kitchens are provided.
- 5.18. For information, should the scheme include no grant, the affordable housing offer would be 40% as set out below.

Site	Total Habitable Rooms	Habitable Rooms Affordable	Affordable Housing Provision
City Pride	1043	25	2.5%
Island Point	764	700	91.6%
Total	1807	725	40%

Protected species

- 5.19. Bats are a protected species. It is a criminal offence to:
1. Deliberately capture, injure or kill a bat
 2. Intentionally or recklessly disturb a bat in its roost or deliberately disturb a group of bats
 3. Damage or destroy a bat roosting place (even if bats are not occupying the roost at the time)
 4. Intentionally or recklessly obstruct access to a bat roost
- 5.20. Government Circular 06/2005: ‘Biodiversity and Geological Conservation – Statutory Obligations and their Impact within the Planning System’, provides advice on the handling of planning applications that may harm protected species. The Circular says (paragraph 98):

“The presence of a protected species is a material consideration when a planning authority is considering a development proposal that, if carried out, would be likely to result in harm to the species or its habitat. Local authorities should consult English Nature (now Natural England) before granting planning permission. They should consider attaching appropriate planning conditions or entering into planning obligations under which the developer would take steps to secure the long-term protection of the species. They should also advise developers that they must comply with any statutory species protection provisions affecting the site concerned.”

5.21. Paragraph 99 of Circular 06/2005 adds:

"It is essential that the presence or otherwise of protected species, and the extent that they may be affected by the proposed development, is established before the planning permission is granted, otherwise all relevant material considerations may not have been addressed in making the decision. The need to ensure ecological surveys are carried out should therefore only be left to coverage under planning conditions in exceptional circumstances, with the result that the surveys are carried out after planning permission has been granted. However, bearing in mind the delay and cost that may be involved, developers should not be required to undertake surveys for protected species unless there is a reasonable likelihood of the species being present and affected by the development. Where this is the case, the survey should be completed and any necessary measures to protect the species should be in place, through conditions and/or planning obligations, before the permission is granted."

5.22. The Government's Planning Policy Statement 9: 'Biodiversity and Geological Conservation' advises (paragraph 16):

"Planning authorities should ensure that these species (i.e. subject to statutory protection) are protected from the adverse effects of development, where appropriate, by using planning conditions or obligations. Planning authorities should refuse permission where harm to the species or their habitats would result unless the need for, and benefits of, the development clearly outweigh that harm."

5.23. Thus, where there is "**a reasonable likelihood**" of bats being present and affected by the development, a bat survey should be carried out and its findings considered in the determination of the application.

5.24. The submitted Environmental Impact Assessment includes a chapter on Ecology and outlines the methodology used to assess the ecological baseline conditions of the site and reports conclusions. The assessment methodology comprised the following:

- Undertaking of a desk study to establish existing baseline information for the site and its surrounds;
- Undertaking of an extended Phase I Habitat Survey and protected species risk assessment at the site.

5.25. A desk study was undertaken in May 2007 to obtain information regarding the present and historical ecological interest at the site. Greenspace Information for Greater London (GIGL) was requested to provide the latest available information on records of protected species. GIGL is a professionally managed biological records centre that receives wildlife records from a range of local societies including the London Bat Group. A number of records are held by GIGL of bat species within the vicinity of the site. Bats have been recorded foraging within 400 metres of the site, and the nearest bat roost is located approximately 550 metres to the east of the site. Wildlife records were

supplemented by a search of key literature, including the London Ecology Unit's handbook "Nature Conservation in Tower Hamlets."

5.26. A Phase I Habitat Survey of the site was undertaken on 11th May 2007. This included a site walkover and an assessment of the value of the site with regard to the likely presence of bats. This included an assessment of the site buildings and other structures such as trees, as potential bat roosts. The results of the protected species field survey were then combined with the results of the desk study to assess the potential of the site to support protected species. The assessment is caveated saying: "No investigation can ensure the complete prediction of the presence (or otherwise) of wildlife."

5.27. With regard to bats, the Environmental Statement concludes:

"The derelict building is considered to have negligible potential for roosting bats due to the exposed roof panels, high ambient internal light levels and draughts. Given the absence of hedgerows, trees and vegetation, the site is considered to hold negligible foraging potential for these species. As such, the site is considered to be of negligible value for bat species."

5.28. As required by the Environmental Impact Assessment Regulations, the Council consulted Natural England on the application for planning permission and the supporting Environmental Statement. As reported to the Committee on 19th February 2009, Natural England has raised no objection and welcomes the proposed diversity enhancement measures i.e. green and brown roofs (as a habitat for Black Redstarts). No mention was made of objection due to the possible presence of bats.

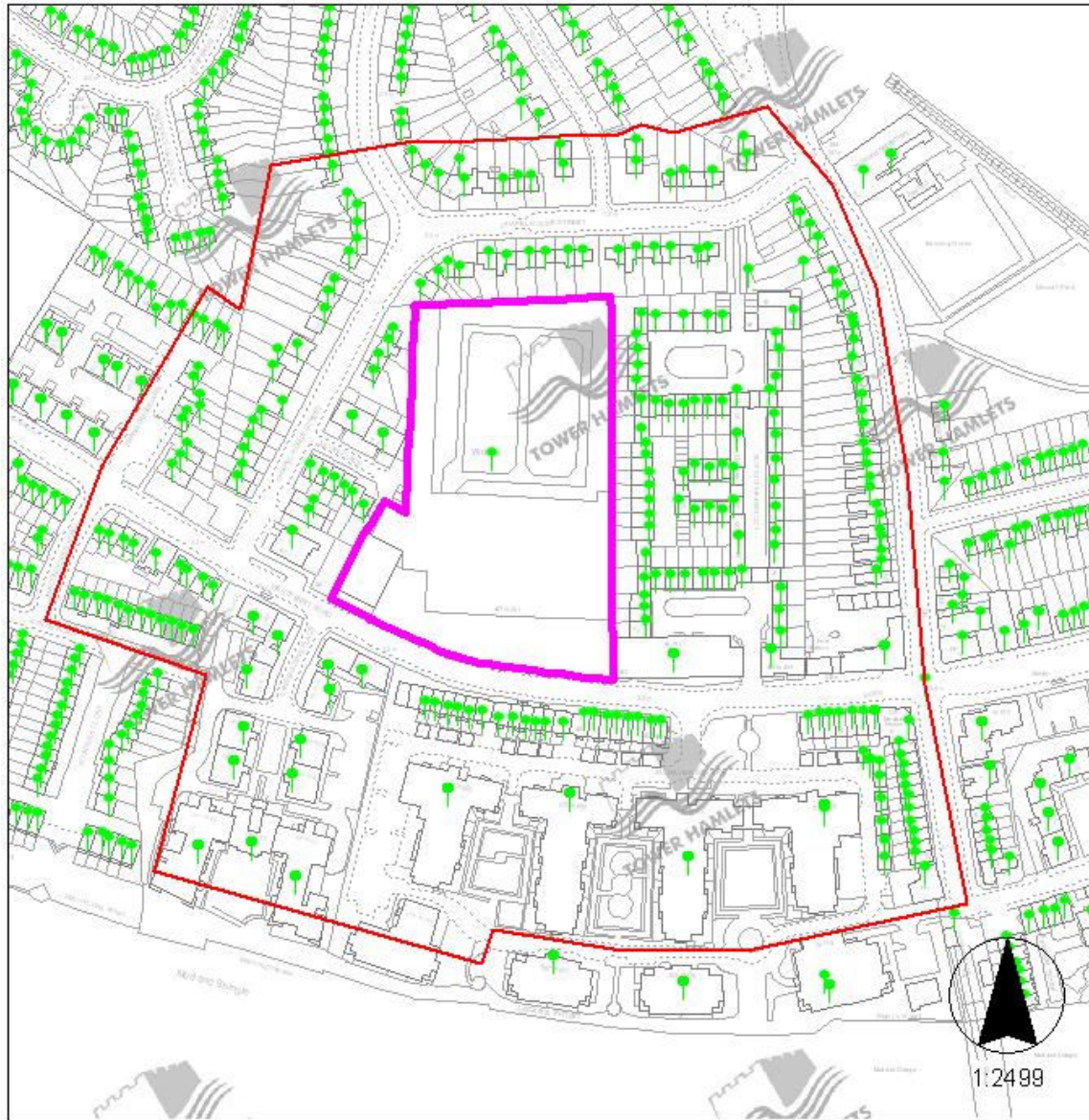
5.29. On the afternoon of 1st April 2009, a Council officer and a Senior Ecologist from Waterman Environmental inspected the site and the derelict buildings it contains. The presence of bats was not detected and there was no evidence of bats roosting in the derelict buildings.

5.30. On balance, it is not considered that there is "**a reasonable likelihood**" of bats being present and affected by the development. Nevertheless, as a safeguarding measure, an additional condition is recommended above to require a further protected species survey of the site to be undertaken before any development commences. The developer has agreed to undertake such a survey. Condition 5 has also been amended to require bat roosts to be incorporated within the development with details to be submitted and approved. A further informative is also recommended advising the developer that bats are a species protected under the provisions of the Wildlife and Countryside Act 1981 and The Habitats Regulations 1994).

6. CONCLUSION

6.1. All relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decisions are set out in the RECOMMENDATIONS at the beginning of this report.

Site Map



Legend

-  Planning Application Site Boundary
-  Consultation Area
-  Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office © Crown Copyright.
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