

<b>Committee:</b> Development Committee	<b>Date:</b> 18 <sup>th</sup> April 2018	<b>Classification:</b> Unrestricted
<b>Report of:</b> Director of Place		<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Hoa Vong		<b>Ref No:</b> PA/17/02781 <b>Ward:</b> Canary Wharf

## 1.0 APPLICATION DETAILS

<b>Location:</b>	Entrance To Claire Place Between 46 and 48, Tiller Road, London
<b>Proposal:</b>	Installation of automated vehicular and pedestrian entrance gates at the vehicular entrance to Claire Place
<b>Drawings and documents:</b>	Planning, Design and Access Statement; Transport Note; Teleguard door entry system specification; Site Plan; Gate Design; RJK-DWG-CPG-04 2017-MH Rev 1.
<b>Ownership/applicant:</b>	Claire Place & Tiller Road Residents Association
<b>Historic Building:</b>	No listed buildings on site.
<b>Conservation Area:</b>	Not in a 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 as well as the London Plan (2016) and the National Planning Policy Framework and all other material considerations and has found that:
- 2.2 The main material planning considerations for members to consider are; whether the proposed security gate would restrict the movement of people on and off site resulting in a gated community; and whether the proposal would be an unsightly addition to the public realm and detract from the character and appearance of the area.
- 2.3 Officers accept that a large number of residents have expressed concerns about the anti-social behaviour levels on site, however it is considered that erecting gates and creating a segregated community does not in itself prevent anti-social behaviour.
- 2.4 In addition to this, the gates are not sufficiently set back from the back edge of the footway on Tiller Road and as a result the refuge area would be insufficient to prevent vehicles queuing onto Tiller Road, should more than one vehicle seek

simultaneous access to the site. Further, the scale, finish and design of the gates is considered to be highly imposing and would thus dominate Claire Place and Tiller Road.

- 2.5 In conclusion, officers consider that the erection of a security gate is not acceptable for the reasons set out below.

#### **4.0 RECOMMENDATION**

That the Committee resolve to **REFUSE** planning permission for the reasons below:

a) The proposed gates and fixed means of enclosure by virtue of their height, scale and siting would appear visually intrusive and fail to retain a permeable environment, by reason of creating a physical barrier resulting in an inappropriate form of development that would create a 'gated' community and would therefore fail to achieve an inclusive environment and create an unacceptable level of segregation. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 3.9, 7.1-7.5 and 7.27 of the London Plan (2016), policies SP04, SP09, SP10 and SP12 of the Core Strategy (2010), and policies DM12 and DM23 of the Managing Development Document (2013). These policies require development to promote the principles of inclusive communities, improve permeability and ensure development is accessible and well connected.

b) The proposed security gate due to its location adjacent to the adopted highway would have an unacceptable impact on the capacity and safety of the adjacent public highway. This would be contrary to the general principles of the National Planning Policy Framework (2012), the London Plan (2016), policy SP09 of the Core Strategy (2010), and policy DM20 of the Managing Development Document (2013). These policies require that development does not have any adverse impact on the capacity and safety of the transport network.

c) The proposed security gate would introduce security measures at the site which are overbearing and would compromise the visual quality of the local environment and would be an unsightly addition to the public realm. This would be contrary to the general principles of the National Planning Policy Framework (2012), the London Plan (2016), policy SP10 of the Core Strategy (2010), and policy DM24 of the Managing Development Document (2013). These policies seek to ensure that design is sensitive to and enhances the local character and setting of the development.

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

##### **Site and Surroundings**

- 4.1. The application site comprises a residential development consisting of 79 properties - 1-51 Claire Place and 20-74 (evens) Tiller Road, constructed in the 1980's. All properties, including those with Tiller Road addresses, have their garages and parking areas accessed via Claire Place. Some of the Tiller Road dwellings also have their entrance doors onto Claire Place. The following shows the applicants site plan.



**Plan 1.** Site Map

- 4.2. The site is located on the southern side of Tiller Road opposite its junction with Alpha Grove. Tiller Road sets the northern boundary for the site; Millwall Dock Road sets the western boundary; the eastern boundary is established by Tiller Leisure Centre; to the south of the site is Westferry printworks recently approved for a 722 unit residential lead mixed use scheme.
- 4.3. The following photograph shows the entrance to Claire Place where the proposed gates are to be erected.



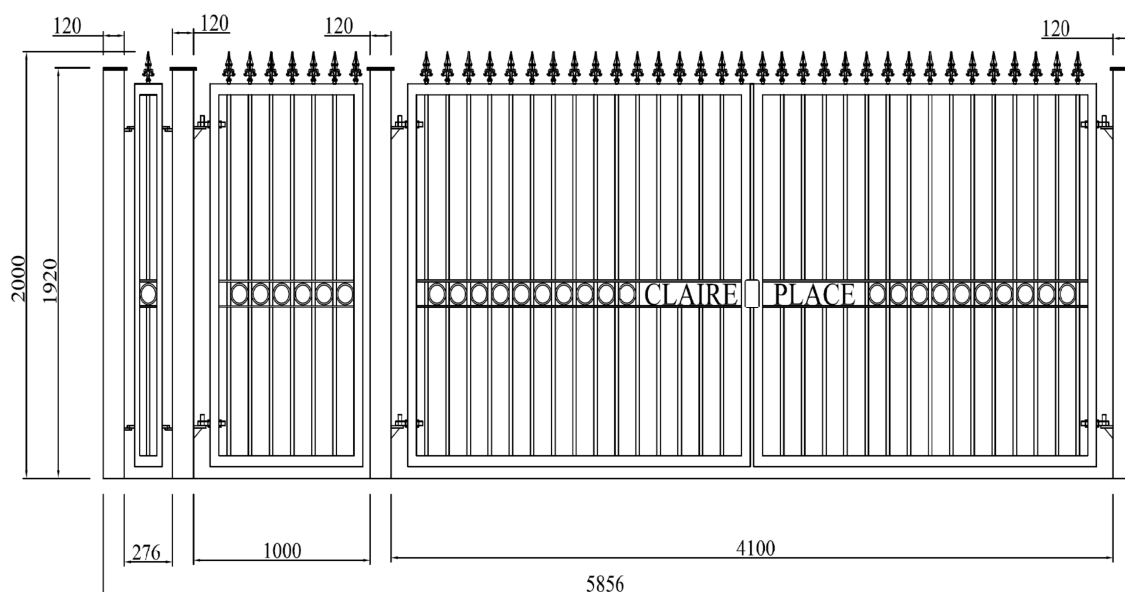
**Photo 1.** Entrance to Claire

- 4.4. With the exception of the entrance to the Claire Place roadway, the site is completely enclosed either by brick walls or black wrought iron railings – the walls and railings being to a height of approximately 1.8m. There are a number of pedestrian only entrances into the development – 4 from Tiller Road and 1 from Millwall Dock Road. At each of these entrance points are wrought iron railings and gates of approximately 1.8m in height.
- 4.5. There are 2 vehicular entrances to the development – the main entrance being the roadway from Tiller Road – Claire Place itself. The secondary vehicular entrance is from Millwall Dock Road where there is a gated vehicular entrance to a garage court.

**Proposal**

- 4.6. The proposed development is for double inward opening vehicular entrance gates with a combined width of 5856mm and a separate pedestrian gate with a width of 910mm to be set back 7m from the front edge of the footway. The gates would be positioned between freestanding columns. The height of the columns would be 1.92m; the gates would be 2m in height. Both the vehicular and pedestrian gates would open swinging inwards. The gates/railings will be constructed of wrought black iron with brick and the words “Claire Place” within the design. As shown in the following plan.

4.7.



**Plan 2. Design of Proposed Gates**

- 4.8. The gates will be automated with vehicular access via hand held remote controlled radio transmitters with automatic exit. Access for non-residents (personal visitors, trades people etc) will be via an entry-phone system. The gates will include a fireman’s drop key switch device to enable emergency access.

## Relevant Planning History

- 4.9. Two previous applications have been received for gates at this site in 2007 and 2010, both applications were refused under delegated authority and are listed below.
- 4.10. PA/07/02668- Installation of automated electric entrance gates (3350mm wide x 2300mm high and 900mm wide x 2300mm high) to Claire Place. (Permission Refused 17/11/2007). The reasons for refusal were as follows:
1. The proposed gate by reason of its height, design and location would create a 'gated community' by providing a physical and visual barrier to Claire Place from Tiller Road. This would result in an unacceptable form of development that would fail to achieve an inclusive and permeable environment. As such, the proposal is contrary to Supplementary Planning Guidance: 'Designing Out Crime' as referred to in Policy DEV1 in the Tower Hamlets Unitary Development Plan (1998) and Policies CP4, DEV2 and DEV3 of the Council's Interim Planning Guidance: Core Strategy and Development Control Plan (October 2007), Policies 4B.1 and 4B.5 of the London Plan (2004) and PPS1 (Delivering sustainable Development) which seeks to resist 'gated communities' and preserve and enhance inclusive environments.
  2. The proposed gate by reason of its design and proximity to Tiller Road would result in a potential and unacceptable disruption to the free flow of traffic along Tiller Road. As such, the proposal is considered to be detrimental to vehicle and pedestrian safety along this part of Tiller Road is contrary to Policies T16 and T18 of the Tower Hamlets Unitary Development Plan (1998) which seeks to safeguard pedestrians and other road users.
- 4.11. PA/10/02743- Installation of a vehicle gate to the entrance to Claire Place between 46 and 48, Tiller Road. (Permission Refused 03/02/2011). The reasons for refusal are as follows:
1. The proposed gates would restrict full public access resulting in an unacceptable form of development that would fail to achieve an inclusive and permeable environment and would create an unacceptable level of segregation. The proposal is therefore contrary to adopted policies SP09 and SP10 of the Core Strategy (2010), saved policy DEV1 in the Unitary Development Plan 1998, Policies DEV2 and DEV3 in the Interim Planning Guidance (2007) and policy 4B.1 of the London Plan consolidated with alterations since 2004 which states that developments should promote high quality inclusive design, be accessible, usable and permeable for all users.
  2. The proposed gates by virtue of their position and design would appear visually intrusive and would result in an inappropriate form of development that would create a 'gated' community and would therefore fail to contribute to the permeability of the urban environment. The proposal is therefore contrary to adopted Core Strategy policies SP09(2C) and SP10, saved policy DEV1 in the Unitary Development Plan 1998, Policies DEV2 and DEV3 in the Interim Planning Guidance: (2007) and Policy 4B.5 of the London plan which states that developments should be convenient and welcoming with no disabling

barriers, so everyone can use them independently without undue effort, separation or special treatment.

## **5.0 POLICY FRAMEWORK**

5.1. 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**

- 2.9 - Inner London
- 3.9 - Mixed and balanced communities
- 6.3 - Assessing effects of development on transport capacity
- 7.1 - Building London’s neighbourhoods and communities
- 7.2 - An inclusive environment
- 7.3 - Designing out crime
- 7.4 - Local character
- 7.5 - Public realm
- 7.6 - Architecture

### **5.4. Core Strategy 2010**

- SP02 - Urban living for everyone
- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating distinct and durable places
- SP12 - Delivering placemaking

### **5.5. Managing Development Document 2013**

- DM20 – Supporting a sustainable transport network
- DM23 - Streets and the public realm
- DM24 - Place-sensitive design
- DM25 – Amenity

### **5.6. Supplementary Planning Documents**

N/A

### **5.7. Tower Hamlets Community Plan objectives**

- A Great Place to Live
- A Prosperous Community
- A Safe and Supportive Community
- A Healthy Community

5.8. Statutory public consultation on the draft London Plan commenced on the 1st of December 2017 and is now closed. This is the first substantive consultation of the

London Plan, but it has been informed by the consultation on 'A City for All Londoners' which took place in Autumn/Winter 2016.

**5.9.** The current 2016 consolidation London Plan is still the adopted Development Plan. However the Draft London Plan is a material consideration in planning decisions. It gains more weight as it moves through the process to adoption, however the weight given to it is a matter for the decision maker.

**5.10.** The Tower Hamlets Local Plan 2031: Managing Growth and Sharing the Benefits Statutory public consultation on the 'Regulation 19' version of the above emerging plan commenced on Monday 2nd October 2017 and has closed. Weighting of draft policies is guided by paragraph 216 of the National Planning Policy Framework and paragraph 19 of the Planning Practice Guidance (Local Plans). Accordingly as Local Plans pass progress through formal stages before adoption they accrue weight for the purposes of determining planning applications. As the Regulation 19 version has not been considered by an Inspector, its weight remains limited. Nonetheless, it can be used to help guide planning applications and weight can be ascribed to policies in accordance with the advice set out in paragraph 216 of the NPPF.

## **6.0 CONSULTATION RESPONSE**

6.1 The views of the Directorate of Place are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The summary of consultation responses received is provided below.

6.2 The following were consulted regarding the application:

### **External Consultees**

#### Metropolitan Police

6.3 The height of the gate is stated as 2.0m. Invariably we would prefer gates to a height of 2.4m installed.

6.4 The construction and installation of the gates should be in such a manner as not to be used as a climbing aid or have the ability to be by-passed. Furthermore there should be minimal clearance under the gate so as not to allow a person to gain entry from below.

6.5 Both the pedestrian and vehicle gate should be certificated to a minimum standard of LPS 1175 SR1 or an equivalent standard. Where the design of the gate is fixed, I would recommend that the centres be no more than 50mm so as not to be used as a climbing aid.

6.6 A suitable electronically controlled locking mechanism with fob access control should be incorporated with a self-closing mechanism for both gates. This will also include a suitable audio/video system to control access for visitors.

## **Internal Consultees**

### Highways

- 6.7 Transport and Highways cannot support the proposed entrance gates. The gate should be set back 6m from the back of the footway and not from the edge of the carriageway or front edge of the footway. 6m waiting spaces have to be within the private land and should not include any public highway.

## **7.0 LOCAL REPRESENTATION**

### Statutory Consultees

- 7.1 94 Letters were sent to neighbouring properties including all those within Claire Place and those adjacent on Tiller Road. A site notice was also displayed outside the application site. The following responses were received in relation to that scheme.

No of individual responses:	Objecting: 0
support from a local ward Councillor)	Supporting: 41 (including a letter of

No of petitions received:	0
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- 7.2 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

### Design

- 7.3 There is precedence for gates in the area.
- 7.4 Claire Place is a private road and does not lead to other routes.
- 7.5 The gates are of a high quality and in keeping with the area.
- 7.6 There are no green spaces within Claire Place.

### Crime related

- 7.7 Anti- social behaviour, particularly with other developments in the area coming forward.
- 7.8 Vandalism.
- 7.9 Lack of CCTV in the area.
- 7.10 Theft.
- 7.11 Violence.
- 7.12 Illegal parking within Claire Place.



## 8.0 MATERIAL PLANNING CONSIDERATIONS

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

1. Design
2. Transportation
3. Other Matters
4. Conclusion

### Policy Context

- 8.2 Paragraph 56 of the NPPF the government attaches great importance to the design of the built environment. Paragraph 69 of the NPPF states the planning system should encourage safe and accessible environments where crime and disorder, and the fear of crime, do not undermine quality of life or community cohesion; and safe and accessible developments, containing clear and legible pedestrian routes, and high quality public space, which encourage the active and continual use of public areas.
- 8.3 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.
- 8.4 Policy 7.3 of the Adopted London Plan (2016) seeks to create safe, secure and appropriately accessible environments where crime and disorder and the fear of crime do not undermine quality of life or cohesion. The policy goes on to highlight that developments should reduce opportunities for criminal behaviour and contribute to a sense of security without being overbearing or intimidating.
- 8.5 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 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.
- 8.6 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. Furthermore, policy DM24 (1A) seeks to ensure that design is sensitive to and enhances the local character and setting of the development.

### Assessment

- 8.7 The proposed development is for double inward opening vehicular entrance gates with a combined width of 5856mm and a separate pedestrian gate with a width of 910mm to be set back 7m from the front edge of the footway. The gates would be positioned between freestanding columns. The height of the columns would be 1.92m; the gates would be 2m in height. Both the vehicular and pedestrian gates would open swinging inwards. The gates/railings will be constructed of wrought black

iron with brick and the words “Claire Place” within the design. An elevational drawing of the gates is shown below.

8.8 The following is a plan showing the location of the gates relative to Tiller Road.



Plan showing gates set back 7000mm from Tiller Road.

- 8.9 The proposed security gate is free standing and measures 5.8m in width and 1.92m-2m in height and is to be made from galvanized steel and finished in black. Due to its overall scale and finish, along with its design which features posts, it is considered that such an addition into the streetscape would be highly imposing and would thus unnecessarily dominate the streetscene.
- 8.10 The gates in such close proximity to 2 storey dwellings would also appear out of scale with the surrounding townscape resulting in an incongruous addition to the streetscene.
- 8.11 Security gates such as that proposed are therefore considered to be a unsightly addition to the public realm and would not enhance the character and setting of the area. This is a view shared by the Councils Urban Design officer who has also objected to the proposal.

#### Accessibility/Permeability

- 8.12 This proposal would result in a structure which would be intended to be a barrier to movement, controlling pedestrian and vehicular movement within Claire Place.
- 8.13 It is noted that Claire Place does not lead to any public routes, however both national and local planning policies put an emphasis on creating mixed and inclusive communities where social interaction between all members of society is encouraged.

- 8.14 However, the proposal would result in a 'gated' community which would be physically and visually impermeable for non-residents which is against the general planning principle of inclusive communities. NPPF paragraph 75, London Plan 7.2, Core Strategy SP12 and DM23 of Managing Development Document resist the creation of gated communities. Specifically, the Council's Core Strategy policy SP09 (2C) states that gated communities will not be supported. The supporting text for policy SP09 highlights evidence from the Urban Design Compendium 2 dated 2007, which states that a high quality urban environment and layout can help deliver social benefits, including civic pride, increased connectivity, reduced fears of crime social cohesion, and improved health and well-being. The erection of the proposed gates therefore fails to accord with the above mentioned policies.

### Secure by Design

- 8.15 The application has been submitted to address concerns raised by residents who consider that the unrestricted access results anti-social behaviour and incidents of crime at the application site. This is the overwhelming reason behind the letters of support for this application. It is also noted that the local ward Councillor has also raised this as a particular concern within the area and there is support from the Metropolitan Police's Crime Prevention Officer following consultation of the application.
- 8.16 In order to understand crime related issues and take them into account to ascertain whether the application site can be considered as an exception as a material planning consideration that outweighs the Council's adopted planning policy a comparative study of crime was undertaken by officers.
- 8.17 The study analysed all of the crime experienced both on the application site and in the Canary Wharf ward which involved taking data available from the Metropolitan Police website (See Figure 1 for the boundary area). It should be noted that the below statistics are a summary of all 'notifiable' crimes, and that the Metropolitan Police website defines a notifiable offence as an 'incident where the police judge that a crime has occurred. Not all incidents that are reported to the police result in a crime'.
- 8.18 The boundary area has a total of 6,166 households (according to the Tower Hamlets Canary Ward Wharf profile May 2014), whilst Claire Place has a total of 51 households (according to the original planning application). It can thus be derived from these figures that Claire Place represents 0.8% of the total households within Canary Wharf Ward. Although this figure does not reflect the large number of developments approved, implemented and built out since the profile in 2014. The comparative study has been undertaken by using crime statistics from the Metropolitan Police (website) for both the boundary area (see Fig.1 and Fig.3) and Claire Place (see Fig.2 and Fig.3) over the past year (January 2017 – December 2017) which represent the most recent crime statistics currently available (February 2018).
- 8.19 Fig.3 illustrates (on a month by month basis) the total crime rate for the boundary area along with the average crime rate per property within the boundary area and the total crime rate for Claire Place along with the average crime rate per property within Claire Place. In addition to this Fig.3 also gives the breakdown (by type) of crimes reported in Claire Place and then illustrates whether the average crime rate per property within Claire Place was either above or below the average crime rate per property within the boundary area.

8.20 It should be noted that the crime statistics website details crime at or near Claire Place, including those crimes which have taken place on the adjacent roads on Tiller Road and Millwall Dock Road, which the application documents do not differentiate between. For the purposes of the application which relates to Claire Place only, crimes taking place on Tiller Road and Millwall Dock Road will not form part of the assessment.

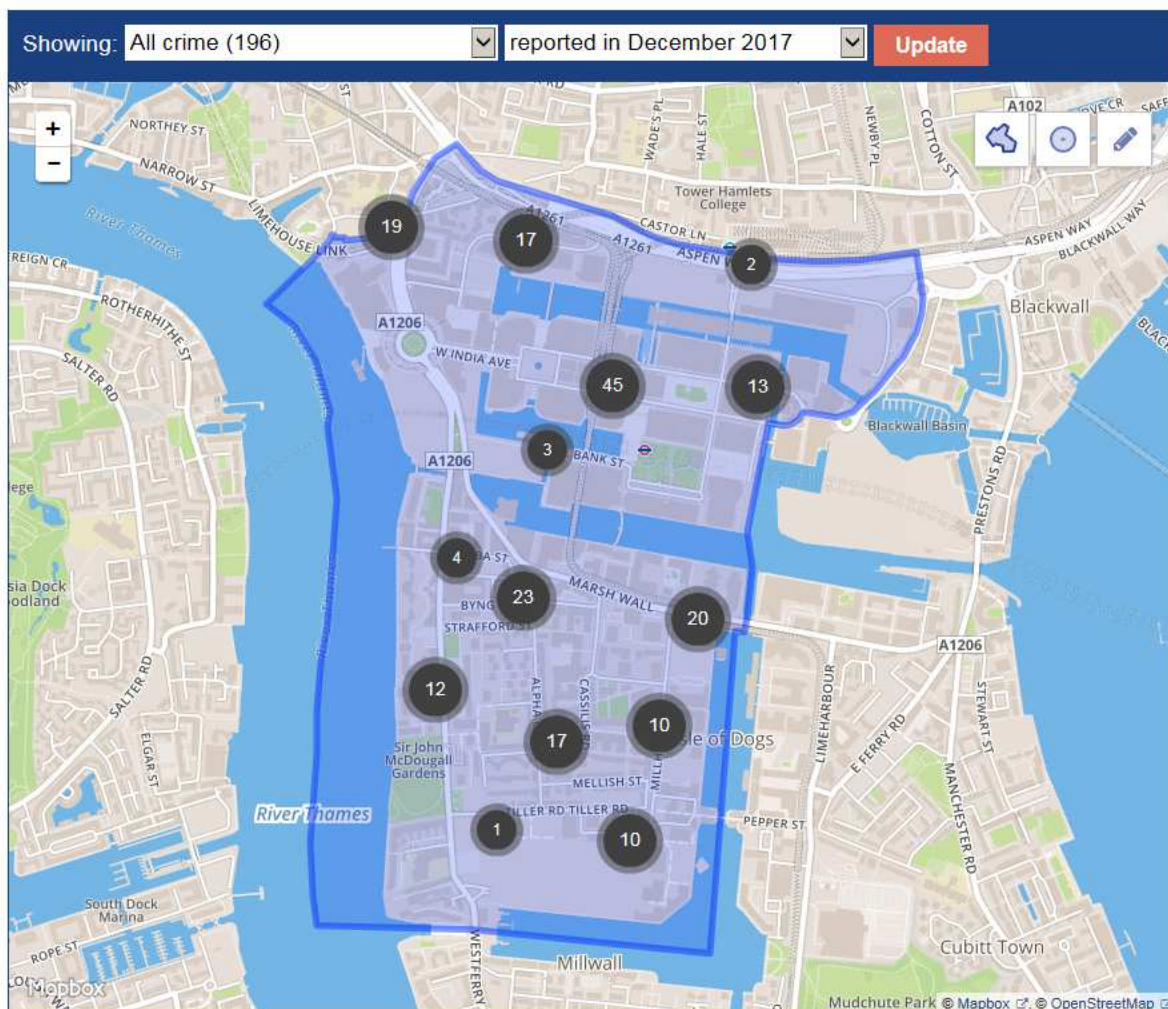


Fig. 1- Crime Map of the Canary Wharf ward boundary area ([www.police.uk](http://www.police.uk))

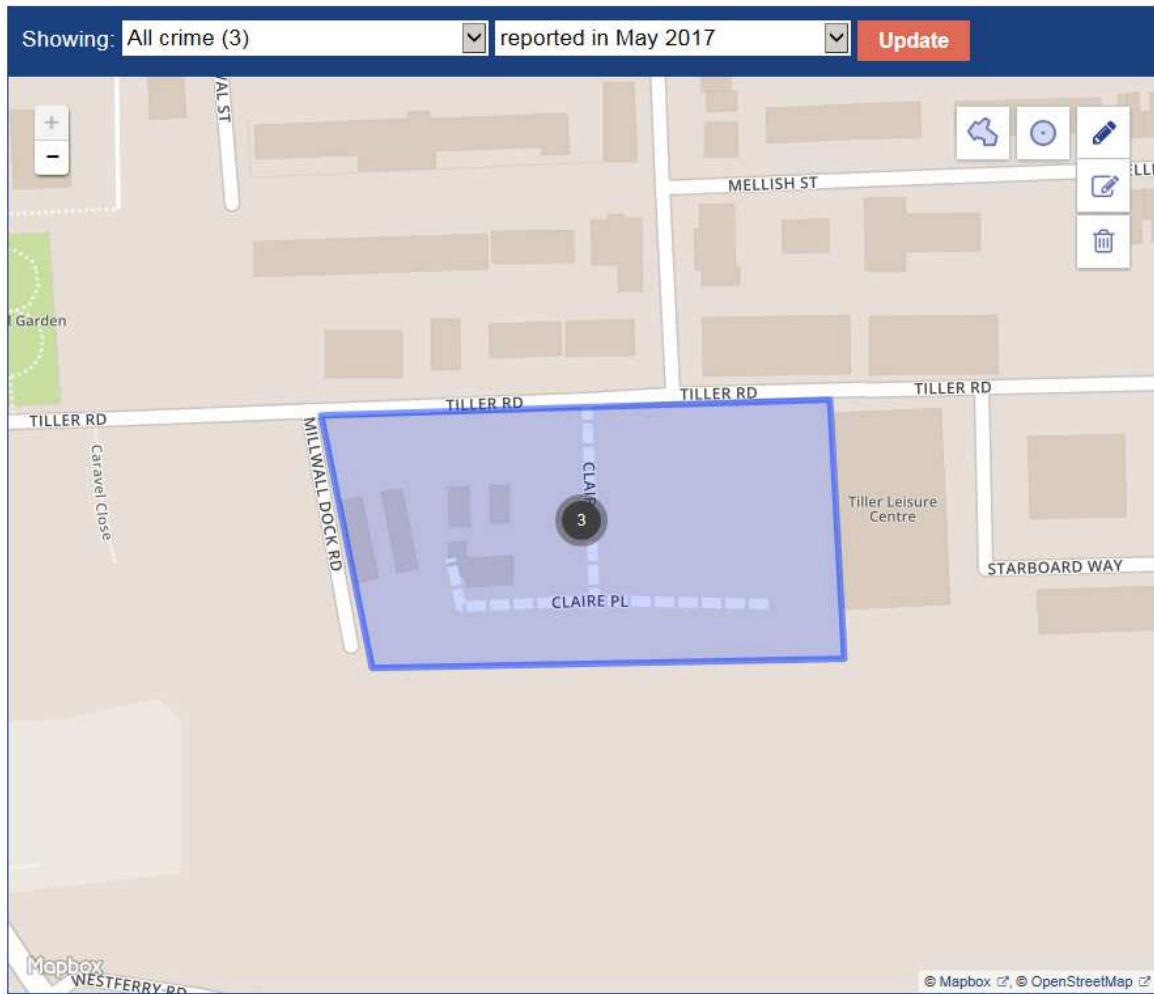


Fig 2. Crime map of Claire Place ([www.police.uk](http://www.police.uk))

Time Period	Boundary Area (No. of households – 6,166)		Claire Place (No. of households – 51)		Breakdown of crimes at Claire Place	Average
	Total Crime	Crime per property	Total Crime	Crime per property		
Jan 2017	198	0.032	0	0	N/A	Below
Feb 2017	199	0.032	0	0	N/A	Below
Mar 2017	167	0.027	0	0	N/A	Below
April 2017	153	0.024	2	0.039	Vehicle Crime (1), Violence and sexual offences (1)	Above
May 2017	185	0.030	3	0.058	Anti- social behaviour (1), Drugs (1), Violence and sexual offences (1)	Above
June 2017	193	0.031	0	0	N/A	Below
July 2017	193	0.031	0	0	N/A	Below
Aug 2017	204	0.033	2	0.039	Anti- social behaviour (1), public order (1)	Above
Sept 2017	202	0.032	0	0	N/A	Below
Oct 2017	195	0.031	1	0.016	Vehicle Crime (1)	Below
Nov 2017	175	0.028	0	0	N/A	Below
Dec 2017	196	0.031	0	0	N/A	Below

Fig. 3 – Crime statistics (taken from [www.police.uk](http://www.police.uk))

- 8.21 Fig.3 clearly illustrates that the crime rate experienced on Claire Place is below the average crime rate when compared with the context of the boundary area. Whilst officers observe that crime has occurred within Claire Place (most notably anti-social behaviour, the above evidence it cannot be considered that the crime rate experienced at Claire Place 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.
- 8.22 The applicant has submitted additional information detailing 8 additional crimes which have taken place in 2018, 2017, 2016 and 2011 together with a list of crimes that could have been prevented from 2011, 2012 and 2013. The metropolitan police website has not been collated for 2018 and so a complete assessment cannot take place. Nevertheless and in light of this information it is acknowledged that the effects of anti-social behaviour on site can have a negative impact on the amenity of residents, however, there is insufficient evidence to suggest that crime and antisocial behaviour levels are such that greater weight should be given to this argument in planning terms to override the Councils adopted policies.
- 8.23 In addition it should also be considered that the applicant has not demonstrated or outlined any steps that have been taken by management or in association with the police to address the current issues with anti-social behaviour in the first instance without resorting to the gating of the estate. In light of the above, it is considered on balance that the negative implications of the proposal by virtue of its potential to contribute to the segregation of communities far outweigh the perceived benefits of providing a gated entrance Claire Place.

## Conclusions

- 8.24 Overall, it is considered, the proposed gates and fixed means of enclosure by virtue of their height, scale and siting would appear visually intrusive and fail to retain a permeable environment, by reason of creating a physical barrier resulting in an inappropriate form of development that would create a 'gated' community and would therefore fail to achieve an inclusive environment and create an unacceptable level of segregation. This would be contrary to the general principles of the National Planning Policy Framework (2012), policies 3.9, 7.1-7.5 and 7.27 of the London Plan (2016), policies SP04, SP09, SP10 and SP12 of the Core Strategy (2010), and policies DM12 and DM23 of the Managing Development Document (2013). These policies require development to promote the principles of inclusive communities, improve permeability and ensure development is accessible and well connected.
- 8.25 Furthermore, it is concluded the proposed security gate would introduce security measures at the site which are overbearing and would compromise the visual quality of the local environment and would be an unsightly addition to the public realm. This would be contrary to the general principles of the National Planning Policy Framework (2012), the London Plan (2016), policy SP10 of the Core Strategy (2010), and policy DM24 of the Managing Development Document (2013). These policies seek to ensure that design is sensitive to and enhances the local character and setting of the development.

## **Transportation**

- 8.26 Paragraphs 32 and 35 of the NPPF local planning authorities should take account of whether safe and suitable access to the site can be achieved for all people; and whether development creates safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians, and avoid street clutter.
- 8.27 Policy 6.3 of the London Plan 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.
- 8.28 The Council's Core Strategy policy SP09 (3) states that the Council will not support development which has an adverse impact on the safety and capacity of the road network.
- 8.29 Policy DM20 (2) 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 DM23 seeks to ensure that development should be well connected with the surrounding area and should be easily accessible for all people by; improving permeability and legibility, particularly to public transport, town centres, open spaces and social and community facilities; incorporating the principles of inclusive design; and ensuring development and the public realm are comfortable and useable. Furthermore paragraph 23.6 which refers to part (1E) of policy DM23 states that the Council will seek to prevent the creation of barriers to movement.
- 8.30 The proposed gate is sited on the boundary where the public highway intersects with the private highway. LBTH Highways and Transportation department have objected to the proposal on the grounds that they are concerned that the proposal will have an

unacceptable impact on the adjacent public highway network. In order for the scheme to be acceptable in Highways terms, the applicant would need to revise the proposal and set the gate back 6m from the back edge of the footway so that vehicles can wait within the boundary of the private road before entering the development. The applicant has confirmed that the footway is 2.5m wide and that the gates would be setback 7m from the front of the footway. The proposed gates would therefore only be setback 4.5m from the back of the footway which cannot be accepted in terms of highways impacts.

- 8.31 The Council's policies (see Core Strategy SP09 and Managing Development Document DM20) cite that development should not have an unacceptable impact on the capacity and safety of the transport network, and due to the fact that the installation of a gate in its current location would cause vehicles to wait on the public highway, it is considered that the proposal in its current state discords with policy on both safety and capacity grounds in this instance.

### **Other Matters**

- 8.32 A number of appeal decisions have been brought to the Councils attention in relation to gates on the Isle of Dogs which have allowed gates, officers are also aware of appeal decisions which dismissed gates. These have been considered by officers in the assessment of the application. However, each site is assessed on its own planning merits and therefore cannot be taken as precedence in support of the current application.

### **Conclusion**

- 8.33 In light of the above, it is considered that the proposal would be contrary to national, regional and local planning policy as it restricts movement, creates a gated community, has an unacceptable impact on the public highway, does not incorporate the principles of inclusive design and is not sensitive to nor enhances the local character of the area.

## **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:

- 9.2 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".

- 9.3 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.
- 9.4 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.
- 9.5 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 9.6 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.

## **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 CONCLUSION**

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

Appendix 1 SITE MAP

