

Committee: Development	Date: 27 th July 2011	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Town Planning Application
Case Officer: Jane Jin	Ref No: PA/10/01757
	Ward: Bethnal Green South

1. APPLICATION DETAILS

NOTE

The application is subject to an appeal under the Town and Country Planning Act 1990 against non-determination and the effect of this means that only the Planning Inspectorate has jurisdiction to determine the matter. The appeal is to proceed by a way of a Public Inquiry and is scheduled for 3 days, commencing on 6th September 2011.

This report requests the Development Committee to endorse the officer's recommendation to refuse the application.

Location:

Site at 58-64 Three Colts Lane and 191-205 Cambridge Heath Road, London

Existing Use: Proposal:

Demolition of existing buildings and erection of two part 6, part 7 storey building plus basement to provide 1690sq.m of commercial floor space (Use Classes A1-A4 & B1) and 142 dwellings; provision of 26 on-site parking spaces within the basement and creation of access onto Buckhurst Street.

Drawing Nos/Documents: Documents:

- Design and Access Statement dated July 2010 by GML Architects ref 3384/DS;
- Planning Impact Statement dated July 2010 by Grainger Planning Associates Ltd;
- Transport Statement dated July 2010 by Entran Ltd;
- Television & Radio Reception Assessment dated April 2010 ref: v.03 by WSP;
- Wind Assessment dated April 2010 ref: 12269359-001 by WSP;
- Noise Report dated July 2010 ref: AC/12269357/R1 by WSP;
- Air Quality Assessment dated July 2010 ref: 12269357-001 v.02 by WSP;
- Vibration Assessment dated July 2010 ref: AC/12269357/R2 by WSP;
- Landscape Statement dated April 2011 ref: D1855

Rev A by Fabrik UK;
- Daylight and Sunlight Report dated August 2010 ref: PAS/PK/152077/01 by GL Hearn Ltd;
- Sustainability Statement dated August ref 3218 by MTT Sustain;
- Phase 1 Geotechnical Assessment Report dated November 2007 ref: BOU513SE/01/V1 by BWB Consulting Ltd;
- Phase 2 Geo Environmental Assessment Report dated April 2008 ref: BOU513SE/02/V1 by BWB Consulting Ltd;
- Letter of Reliance dated 5th July 2010 by BWB;
- Statement of Community Involvement dated June 2010; by Quatro Consults;
- Assessment of Economic Viability version 2 dated February 2011 by BNP Paribas

Plan Nos:
3384/P1; 3384/P2; 3384/P3; 3384/P4; 3384/P5;
3384/P6; 3384/P7; 3384/P8; 3384/P9; 3384/P10;
3384/P11; 3384/P12; 3384/P13; 3384/P14;
3384/P15B; 3384/P16A; 3384/P17A; 3384/P18A;
3384/P19A; 3384/P20A; 3384/P21A; 3384/P24;
3384/P25; 3384/P26; 3384/P27; 3384/P28; 3384/P29;
3384/P30A; 3384/P31; 3384/P32A; 3384/P33A;
3384/P34A; 3384/P35A; 3384/P36; 3384/P37;
3384/P38; 3384/P39; 3384/P40; 3384/P41A;
3384/P42A; 3384/P43A; 3384/P44A; 3384/P50A;
3384/P51

Applicant:	Evenleigh Ltd
Ownership:	Roy Sandler; Lauren Sandler; Joanna Sandler; and Timothy Sandler
Historic Building:	N/A
Conservation Area:	N/A

2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

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 Unitary Development Plan 1998, (Saved policies); associated Supplementary Planning Guidance, the London Borough of Tower Hamlets Interim Planning Guidance (IPG 2007); the adopted Core Strategy (2010), as well as the London Plan (2008) and the relevant Government Planning Policy Guidance and has found that:

1. The proposal by virtue of

- a) an inappropriate tenure split within the affordable housing provision and
- b) an insufficient level of affordable housing,

fails to provide sufficient affordable housing and housing choice which reflects the Council's priorities for affordable housing contrary to aims of PPS3, Policy 3A.9 of London Plan (2008), Policies: HSG3 and HSG4 of Interim Planning Guidance 2007; and SP02 of Core Strategy 2010 which seek to deliver and achieve the borough's housing priorities and needs to create sustainable communities by providing balanced places that have a range of dwellings sizes,

types and tenures.

2. The proposal fails to provide the necessary planning obligations required towards social and physical infrastructure and services together with public realm improvements and therefore would fail to mitigate against the full impact arising from the development contrary to Policies DEV4 of the Unitary Development Plan 1998; DEV 1 and DEV2 of Interim Planning Guidance 2007; and policy SP13 of the Core Strategy 2010.

3. RECOMMENDATION

- 3.1 That the Committee resolve to **endorse the reasons to refuse the planning permission**, had the Committee had jurisdiction to do so, for the reasons set out above.

4. BACKGROUND

- 4.1 On 10th August 2010, the Council received an application for demolition of existing buildings and erection of two blocks comprising a part 6, part 7 storey buildings plus basement to provide 1690sq.m of commercial floorspace (Use Classes A1-A4 & B1) and 142 dwellings; provision of 26 parking spaces in basement and access onto Buckhurst Street. The proposal was being considered and negotiations with the applicant were taking place to seek amendments to the scheme, however the applicant lodged an appeal against non-determination as the Council had not determined the application within the statutory 13 week period. The decision of this application (**'Appeal Scheme'**) now lies with the Planning Inspectorate. The appeal will be dealt by a way of Public Inquiry due to commence on 6th September 2011.
- 4.2 The same applicant has also submitted a revised proposal (Council's ref PA/11/885) on 12th April 2011 (**'Application Scheme'**). The Application Scheme is similar to the Appeal Scheme, however now omits the basement parking and proposes 141 units together with the amendments as sought initially for the Appeal Scheme. The Application Scheme seeks to address the issues raised in the Appeal Scheme with minor changes incorporated for a determination by the Council. The Application scheme is on the Agenda as a separate item for a decision.
- 4.3 Viability assessments accompanied both applications which concluded that neither development could deliver a policy compliant affordable housing provision, nor could either deliver a fully policy compliant tenure split and full planning contribution. Two options in relation to the Appeal Scheme were presented to the Council, and these will be discussed in more detail in the housing chapter of this report. The viability assessments have been independently assessed by an external consultant appointed by the Council.
- 4.4 Although one of the options in the Appeal Scheme proposes 35% affordable housing measured by habitable rooms or 44 units, it can only provide 16 units in Social Rent (equates to 47%) and 28 Intermediate units (53%). In addition, the S106 offer is reduced to a total sum of £391,000. The proportion of Social Rent to Intermediate is not considered to be satisfactorily balanced. This is discussed in detail report under 'Housing'.
- 4.5 Whilst the Application Scheme proposes 32% affordable housing measured by habitable rooms or 41 units, the number of Social Rented units is greater with 20 units (equates to 56%) being offered and 21 units (44%) as Intermediate. The Application Scheme provides high proportion of family sized units within the Social Rent units, which is in need within the borough. Whilst the proposal is not quite policy compliant in terms of % proportion of affordable housing, the greater amount of social rented units addresses an identified need together with an appropriate level of s106 contributions is considered to provide an appropriate balance between delivering affordable housing, tenure split, dwelling mix and

s106 contribution, having considered the viability of the scheme. The Application Scheme is for consideration and decision and forms a separate item on the Agenda.

5. PROPOSAL AND LOCATION DETAILS

Proposal

- 5.1 The proposal seeks planning permission for the demolition of existing buildings and erection of two buildings of part 6 and part 7 storeys in height. The proposal consist of:
- 142 Residential units (45 x 1bed; 71 x 2 beds; 21 x 3 beds; and 5 x 4beds);
 - A combined total space of 1,762sq.m of commercial use (A1/A2/A3/A4 and B1);
 - 26 on site car parking spaces; and
 - Creation of access onto Buckhurst Street.

Site and Surroundings

- 5.2 The application site comprise of two parcels of land:
- 58-64 Three Colts Lane; and
 - 191-205 Cambridge Heath Road
- 5.3 58-64 Three Colts Lane is bounded by railway viaduct to the south, Coventry Road to the west, Buckhurst Street to the east and Three Colts Lane to the north. The surrounding uses are mixed, with B1/B8 uses opposite Coventry Road; Student Housing opposite side of Three Colts Lane; and residential uses to the southern side of the railway viaduct. The site is currently occupied by a two 2 storey building and is currently used as a furniture warehouse with sales and display.
- 5.4 191-205 Cambridge Heath Road is bounded by Cambridge Heath Road to the east; Three Colts Lane to the north; Coventry Road to the west and railway viaduct to the south. The surrounding uses are also mixed, with small works shops under the railway arches, Bethnal Green Gardens opposite the site on the other side of Cambridge Heath Road; and commercial premises on the northern side opposite side on Three Colts Lane.
- 5.5 Whilst the application site does not fall within a Conservation Area, the nearby Bethnal Green Gardens is within Bethnal Green Gardens Conservation Area.

Relevant Planning History

- 5.6 The following planning history is relevant to the application:
- 5.7 PA/03/01698 Demolition of existing building and construction of new 11, 12 and 13 storey buildings comprising of 34 live/work units, 122 self-contained residential units together with 1156sqm of commercial space.
- This application was withdrawn.
- 5.8 PA/07/01023 Demolition of all existing buildings on the site and erection of two new buildings: Block A being 17 storeys, Block B between 9 and 12 storeys. The use of the new buildings as 455 student accommodation bedrooms (15,762sqm), 343sqm of A1 (Landuse Class) floorspace, 195sqm of A3 (Landuse Class) floorspace an 1624sqm of B1/B2/B3 (Landuse Class) floorspace and associated landscaping.
- This application was withdrawn.

- 5.9 PA/11/00885 Demolition of existing buildings and erection of two part 6, part 7 storey buildings plus basement to provide 1690sq.m of commercial floorspace (Use Classes A1-A4 & B1) and 141 dwellings; provision of 9 on-site parking spaces and access onto Buckhurst Street and Coventry Road.

The application is similar with the subject proposal however offers an appropriate balance of affordable housing; tenure split; dwelling mix and S106 contributions.

A separate Report as a separate item on the Agenda has been prepared with a recommendation for a decision.

6. POLICY FRAMEWORK

- 6.1 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:

6.2 Government Planning Policy Guidance/Statements

PPS1	Delivering Sustainable Development
PPS3	Housing
PPG4	Industrial, Commercial Development and Small Firms
PPS9	Biodiversity and Conservation
PPG10	Planning and Waste Management
PPG13	Transport
PPG17	Sports and Recreation
PPS22	Renewable Energy
PPG24	Noise

6.3 Spatial Development Strategy for Greater London (London Plan) Consolidated with alterations since 2004.

2A.1	Optimising of sites
3A.1	Increasing London’s supply of housing
3A.2	Borough’s Housing Targets
3A.3	Maximising the potential sites
3A.5	Housing Choice
3A.6	Quality of new housing provision
3A.9	Affordable housing targets
3A.10	Negotiating affordable housing in individual private residential and mixed use schemes
3A.11	Affordable housing thresholds
3A.17	Addressing the needs of London’s diverse population
3A.18	Protection and enhancement of social infrastructure and community facilities
3B.1	Developing London’s economy
3B.2	Office demand and supply
3B.3	Mixed use development
3C.1	Integrating transport and development
3C.2	Matching development to transport capacity
3C.3	Sustainable transport in London
3D.12	Open Space Strategy
3D.13	Children and young people’s play and informal recreation strategies
4A.1	
4A.2	Tackling climate change

4A.3	Mitigating climate change
4A.4	Sustainable design and construction
4A.5	Energy assessment
4A.6	Provision of heating and cooling networks
4A.7	Decentralised energy: heating, cooling and power
4A.9	Renewable energy
4A.11	Adaptation to Climate Change
4A.12	Living Roofs and Walls
4A.16	Sustainable drainage
4A.18	Water supply and resources
4A.20	Water and sewerage infrastructure
4B.1	Reducing noise and enhancing soundscapes
4B.2	Design principles for a compact city
4B.3	Promoting world class architecture and design
4B.5	Enhancing the quality of the public realm
4B.6	Safety, security and fire prevention and protection
4B.8	Creating an inclusive environment
4B.9	Respect local context and communities

6.4 Unitary Development Plan 1998 (as saved September 2007)

Policies:	DEV1	Design Requirements
	DEV2	Environmental Requirements
	DEV3	Mixed Use development
	DEV4	Planning Obligations
	DEV8	Protection of local views
	DEV12	Provision of Landscaping in Development
	DEV50	Noise
	DEV51	Contaminated Land
	HSG7	Dwelling mix & type
	HSG13	Impact of Traffic
	HSG16	Housing amenity space
	EMP1	Promoting Employment Growth
	EMP7	Work Environment
	T16	Traffic Priorities for new development
	T18	Pedestrian Safety and Convenience
	T21	Existing Pedestrians Routes
	U2	Consultation Within Areas at Risk of Flooding
	U3	Flood Defences

6.5 Interim Planning Guidance for the purposes of Development Control

Policies:	IMP1	Planning obligations
	DEV1	Amenity
	DEV2	Character & Design
	DEV3	Accessibility & Inclusive Design
	DEV4	Safety & Security
	DEV5	Sustainable Design
	DEV6	Energy Efficiency & Renewable Energy
	DEV7	Sustainable Drainage
	DEV10	Disturbance from Noise Pollution
	DEV12	Management of Demolition and Construction
	DEV13	Landscaping and tree preservation
	DEV15	Waste and Recyclables Storage
	DEV16	Walking and Cycling Routes and Facilities

DEV17	Transport Assessments
DEV18	Travel Plans
DEV20	Capacity of Utility Infrastructure
DEV21	Flood Risk Management
DEV22	Contaminated Land
DEV25	Social Impact Assessment
EE2	Redevelopment /Change of Use of Employment Sites
HSG1	Determining Residential Density
HSG2	Housing Mix
HSG3	Affordable housing provisions in individual private residential and Mixed –use schemes
HSG4	Varying the Ratio of social rented to intermediate housing
HSG7	Housing Amenity Space
HSG9	Accessible and adaptable homes

6.6 Adopted Core Strategy Development Plan Document (September 2010)

SP02	Urban living for everyone
SP03	Creating healthy and liveable neighbourhoods
SP04	Creating a green and blue grid
SP06	Delivering successful employment hubs
SP08	Making connected places
SP09	Creating attractive and safe streets and spaces
SP10	Creating distinct and durable places
SP11	Working towards a zero-carbon borough
SP12	Delivering placemaking
SP13	Planning Obligation
LAP2	Bethnal Green

6.7 Supplementary Planning Guidance/Documents

SPG	Designing Out Crime
SPG	Residential Standards

6.8 Community Plan

The following Community Plan objectives relate to the application:

- A Great place to live;
- A Health Community;
- A Prosperous Community; and
- Safe and Supportive Community

7. CONSULTATION RESPONSE

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

7.1 The following were consulted regarding the application:

NHS Tower Hamlets

7.2 The proposed development is within LAP 2. The nearest current practice is Blitkehale Medical Centre. The anticipated population growth in LAPs 1 & 2 is estimated rise from 71720 in 2010 to 75093 in 2015 an increase of over 4%. To accommodate the expected population growth in the area, a network service hub is planned at Dunbridge Street. The s106 contribution would go towards the long lease or fit out costs of this new development.

The amount sought is £187,278 and it is derived from an estimation of the additional new population arising as a result of the development and the capita amount that the PCT would have received if this population had been included in the NHS funding stream from the outset.

LBTH Education Development Team

- 7.3 The proposed dwelling mix has been assessed for the impact on the provision of school places. The mix is assessed as requiring a contribution towards the provision of 19 additional primary school places @ £14,830 which equates to £281,770. This funding will be pooled with other resources to support the LA's programme for the borough of providing additional place to meet need.

LBTH Waste Policy and Development

- 7.4 Initially, there were concerns to the proposed waste provision however the applicant has resolved the refuse storage and now meets the Council's minimum requirement.

LBTH Transport and Highways Team

- 7.5 Many of the issues were being resolved, however there are still concerns to:
- The manoeuvring vehicles within the proposed basement parking will be difficult, although acknowledged that this is unlikely to have an impact on the public highway. However, when on-site parking is proposed, the best possible design should be achieved which enables vehicles to easily access and egress all parking spaces (particularly disabled spaces) and manoeuvre around the parking area.

LBTH Environmental Health (Contaminated Land)

- 7.7 The submitted contamination reports identify that there are elevated levels in metallic and hydrocarbon contamination. A remediation strategy and verification report will be required to be submitted which should be conditioned.

8. LOCAL REPRESENTATION

- 8.1 A total of 313 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. The application has also been publicised in East End Life and on site. No comments have been received.

9. MATERIAL PLANNING CONSIDERATIONS

- 9.1 The main planning issues raised by the application that the committee must consider are:
1. Land Use & Employment
 2. Housing
 3. Design
 4. Amenity
 5. Transport
 6. Sustainability
 7. Section 106 Agreement

Land Use and Employment

- 9.2 The application site does not fall within any designation within the adopted Unitary

Development Plan, 1998, (UDP).

- 9.3 Within the adopted Core Strategy 2010 (CS) the site is identified within LAP 2 (Bethnal Green) which recognises opportunities for growth and change to be delivered by a number of industrial areas being redeveloped for residential, infill development in existing built areas and housing estate renewals.
- 9.4 The proposal would result in the demolition of existing 3750sq.m. of light industrial/warehouse (within Use Classes B1, B2 and B8) on site and erection of a residential-led mixed-use redevelopment with commercial on the ground floor and at a basement level. The applicant has confirmed that the existing number of employees is approximately 62.
- 9.5 The proposal provides a replacement commercial space of 1672sq.m. This is likely to generate approximately 64 employees, using the English Partnerships Employment Density Guidelines.

Table 1: Proposed Commercial Uses

Level	Block A	No. of Full time employment*	Block B	No. of Full time employment*
Basement	544sq.m	6		
Ground	165sq.m	8	147sq.m	8
	252sq.m	13	256sq.m	13
			150sq.m	8
			158sq.m	8
Total	961sq.m	27	711sq.m	37
Total: Floorspace = 1672sq.m; Employees = 64				

* based on English Partnerships Employment Density Guideline

- 9.6 The scheme proposes a flexible use approach and includes A1/A2/A3; D2 and/or B1 Use Class. The supporting Planning Statement indicates that the proposed 554sq.m located within the basement level of Block A could be used as an ancillary storage to commercial space on the ground floor level; or as a gym as it does not benefit from any natural light and ventilation. The proposed use is acceptable.
- 9.7 The supporting planning statement further states that the ground floor commercial units are proposed to be within A1/A2/A3 and/or B1 use. However, it explains that the commercial units located within Block B are anticipated for B1 use, and the commercial units within Block A 'may take the format of a convenience food store (Use Class A1)'. The B1 use within Block B is suitable due to the access provided to the basement area for servicing. Also, this provision would also re-provide employment uses within the site and therefore welcomed. However, the acceptability of the proposed A1 use class within the format of a convenience food store can only be acceptable if servicing levels are known. Therefore, as the proposal is for flexible use classes, a condition will be added to ensure that the units cannot be amalgamated.
- 9.8 Policy EMP1 encourages employment growth through the re-use of vacant and derelict building by redevelopment and upgrading of sites already in employment uses. Policy EE2 of the IPG considers redevelopment and change of use of employment sites. Whilst the site is not entirely vacant, the site is under used. Given that the proposal includes provision of employment use, and employment opportunities will be re-provided on-site, the principle of redevelopment is in-line with the Core Strategy objectives. Therefore, there is no objection in relation to the proposed land use.

Housing

Density

- 9.9 Policy SP02 of Core Strategy seeks to ensure that new housing assists in the creation of sustainable places, by: optimising the use of the land; corresponding density levels of housing to public transport accessibility levels; and that higher densities are promoted in and around town centres.
- 9.10 Policy HSG1 of the IPG specifies that the highest development densities, consistent with other Plan policies, will be sought throughout the Borough. The supporting text states that, when considering density, the Council deems it necessary to assess each proposal according to the nature and location of the site, the character of the area, the quality of the environment and type of housing proposed. Consideration is also given to standard of accommodation for prospective occupiers, microclimate, impact on neighbours and associated amenity standards.
- 9.11 The site has a public transport accessibility level (PTAL) 6b which represents an excellent access to public transport and is within close proximity to Bethnal Green town centre. The proposed residential density would be 1791 habitable rooms per hectare which is significantly higher than the suggested density range, however, the intent of the London Plan and Council's IPG is to maximise the highest possible intensity of use compatible with local context, good design principles and public transport capacity.
- 9.12 It should be remembered that density only serves an indication of the likely impact of development. Typically high density schemes may have an unacceptable impact on the following areas:
- Access to sunlight and daylight;
 - Lack of open space and amenity space;
 - Increased sense of enclosure;
 - Loss of outlook;
 - Increased traffic generation; and
 - Impacts on social and physical infrastructure.
- 9.13 It is considered that a higher density range would be acceptable in this location, given the excellent PTAL rating and its location very close to the Bethnal Green Town Centre. However, the proposal requires detailed assessment on other issues and consideration of any significant impact which may arise as a result of high density. As discussed later in the report, there are no significant material issues as mentioned above which would deem the proposed density unacceptable.

Affordable Housing

- 9.14 Policy CP22 of the Interim Planning Guidance seeks an affordable housing provision on sites capable of providing 10 or more units in accordance with the Plan's strategic target of 35%. Policy 3A.9 of the London Plan states that boroughs should seek the maximum reasonable amount of affordable housing taking into account the Mayor's strategic target that 50% of all new housing in London should be affordable as well as the borough's own affordable housing targets. Policy SP02 of the CS states that the Council will seek to maximise all opportunities for affordable housing on each site, in order to achieve a 50% affordable housing target until 2025, with requirement of 35% - 50% of affordable housing provision on site providing 10 new residential units or more (subject to viability). The supporting text indicates that in a case where affordable housing requirements need to be varied, a detailed and robust financial statement must be provided which demonstrates conclusively why planning policies cannot be met. It further goes on and state that there

should be no presumption that such circumstances will be accepted, if other benefits do not outweigh the failures of a site to contribute towards affordable housing provision.

Viability and Housing Mix

- 9.15 The application is accompanied by a Viability Assessment which sets out and concludes that the proposal cannot viably support 35% affordable housing with policy compliant tenure split and full provision of planning obligations. Initially the report identified that only 24% affordable housing could be provided for the scheme to be viable. It further carried out a sensitivity analysis and found that it could provide 35% affordable housing, however with lower proportion of Social Rented Units. This is due to social rented units attracting lower values and higher level of provision will have a negative impact upon viability. It concludes that 35% affordable housing (measure in habitable rooms) can be provided with 47% Social Rent and 53% Intermediate units. This represents 44 of 142 units being affordable, with only 16 of 44 units being Social Rented. The proposal would also provide reduced s106 financial contributions of £391,000.
- 9.16 The Council have appointed an external consultant District Valuer Services (DVS) to independently review the submitted Viability Assessment.

DVS have stated the values and inputs can be agreed and the scheme is viable when it delivers a non-policy compliant affordable housing provision (i.e. 24%) or 35% affordable housing with higher provision of Intermediate housing and a reduced S106 sum.

The proposal would result in the following dwelling mix.

Table
2

Unit Size	Total Units in the scheme	Affordable Housing						Market Housing		
		Social Rented			Intermediate			Private Sale		
		Units	%	Target %	Units	%	Target %	Units	%	Target %
1 bed	45			30	10	36	25	35	36	50
2 bed	71	1	6	25	15	54	50	55	56	30
3 bed	21	10			3			8		
4 bed	5	5	94	45		10	25		8	20
Total	142	16			28			98		

- 9.17 Paragraph 20 of Planning Policy Statement 3 states that “key characteristics of a mixed community are a variety of housing, particularly in terms of tenure and price and a mix of different households such as families with children, single person households and older people”.
- 9.18 Pursuant to policy 3A.5 of the London Plan, the development should “...offer a range of housing choices, in terms of housing sizes and types, taking account of the housing requirements of different groups, such as students, older people, families with children and people willing to share accommodation.”
- 9.19 Pursuant to Policy HSG7 of the UDP 1998, new housing development should provide a mix of unit sizes where appropriate, including a substantial proportion of family dwellings of between 3 and 6 bedrooms. Policy SP02 of the CS seeks to create mixed use communities. A mix of tenures and unit sizes assists in achieving these aims. It requires an

overall target of 30% of all new housing to suitable for families (3bed plus), including 45 of new social rented homes to be for families.

- 9.20 Whilst the proposal will provide a high proportion of family units within the social rent sector, the total number of social rented units is insufficient and unbalanced compared with Intermediate provision. The proposal fails to recognise the housing needs of this borough and it would result in a development which fails to meet the aforementioned policies, and the aims of PPG3 which seek to deliver balanced communities by providing a mix and range of housing choices. In addition, the reduced amount of S106 financial contribution is insufficient to mitigate the impacts from the proposed development and it will add pressure to the existing infrastructure. Thus it is not considered that the benefits of the development outweigh the failure of the site to contribute sufficiently to affordable housing.
- 9.21 The construction of the basement parking also has implications on the viability of the scheme. The site is within PTAL 6b which is the highest public transport access level. Therefore it can be argued that a scheme with nil on-site parking spaces could be supported. Nonetheless, the applicant's viability assessment costs £300,000 for the construction of the proposed basement and estimates that revenue of £5,000 could be made on the sale of each parking space. Given that 10 spaces would be for disabled users, 16 could be marketed and therefore, the revenue from 16 spaces would generate £80,000. It would seem that there is no economic sense from constructing the basement parking, and is considered that it can only hinder the viability of the scheme thereby resulting in less amount of affordable units the scheme can deliver. This is clear from the Application Scheme, which provides a more appropriately balanced provision of affordable housing; tenure split; dwelling mix and appropriate S106 contributions to mitigate impact arising from the proposed development.

Wheelchair Housing and Lifetime Homes

- 9.22 Policy HSG9: Accessible and Adaptable Homes of the IPG and Policy SP02 require housing to be designed to Lifetime Homes Standards including 10% of all housing to be designed to a wheelchair accessible or 'easily adaptable' standards. A total of 16 units (11%) are provided, in compliance with this policy. The wheelchair units are also vary in size and there are two family sized accommodation which have been designed to a wheelchair accessible or 'easily adaptable' standards. All units have been designed to be capable of use as lifetime homes.

Floorspace Standards

- 9.23 Saved policy HSG13 'Conversions and Internal Space Standards for Residential Space' of the adopted UDP 1998 and Supplementary Planning Guidance 'Residential Space' (adopted 1998) set the minimum space standards for residential developments.
- 9.24 The proposed flats have total floor areas and individual room areas that comply with the minimum standards.

Amenity Space

- 9.25 Pursuant to PPS3, paragraph 16 states that, the matters to consider, when assessing design quality in housing developments, include the extent to which the proposed development "*provides, or enables good access to, community and green and open amenity and recreational space (including play space) as well as private outdoor space such as residential gardens, patios and balconies*". Further still, paragraph 17 of PPS3 states that "*where family housing is proposed, it will be important to ensure that the needs of children are taken into account and that there is good provision of recreational areas,*

including private gardens, play areas and informal play space”.

- 9.26 Saved policy HSG 16 ‘Housing Amenity Space’ of the adopted UDP 1998 requires schemes to incorporate adequate provision of amenity space. The Residential Space SPG 1998 sets the minimum space criteria. Similarly, Policy HSG7 ‘Housing Amenity Space’ of the IPG sets minimum criteria for private as well as communal and children’s playspace. It should be noted that the policy states that, variation from the minimum provision of communal space can be considered where the Council accepts the provision of a high quality, useable and public accessible open space in the immediate area of the site.
- 9.27 The redevelopment proposes to provide amenity space for all residents in the form of balconies and roof top communal amenity space. The communal roof top amenity space is located on both buildings on 6th and 7th floor levels, and all residents will be access to on-site amenity space.
- 9.28 The communal amenity space and Child Play space standards of the UDP and IPG are summarised in Tables 3 below.

Table 3 **Amenity Space standards (Communal and Child Play spaces)**

	No. Units	Proposed (sq.m)	UDP (SPG) Minimum Standard (sqm)*	IPG Minimum Standard (sqm) [†]
TOTAL	143	987	332	292

*Calculation based on 50sqm, plus an additional 5sqm per 5 units

[†]Calculation based on 50sq.m for the first 10 units, plus a further 5sq.m for every 5 additional units thereafter.

Child Play Space

	Proposed	UDP and IPG’s Minimum Standard (sqm)*
TOTAL	123	89

*Calculation based on 3sq.m per child yield

- 9.29 The proposal provides more than adequate amount of communal amenity space provision. The amount of combined on-site usable space and the site being within close proximity to public open space (Bethnal Green Gardens and Weavers Field) is considered that the proposed levels of communal and child play spaces are acceptable.
- 9.30 Provision of private amenity spaces is expected for all residential development. Policy HSG7 of IPG sets out the minimum according to the dwelling sizes. All proposed residential units provide private amenity space in the form of balconies, in the exception of two units on 6th Floors of Block B, which provide roof top garden terrace. Majority of the balconies have access off living areas which is acceptable.

Design

- 9.31 PPS1 promotes high quality and inclusive design, creating well-mixed and integrated developments, avoiding segregation, with well planned public spaces. The PPS recognises that good design ensures attractive, useable, durable and adaptable places and is a key element in achieving sustainable development.
- 9.32 Policy 4B.1 of the London Plan ‘Design Principles for a Compact City’ requires schemes, inter alia, to create/enhance the public realm, respect local context/character and be attractive to look at.

- 9.33 Good design is central to all the objectives of the London Plan. Chapter 4B of the London Plan refers to 'Principles and specifics of design for a compact city' and specifies a number of policies aimed at high quality design, which incorporate the principles of good design. These principles are also reflected in policies DEV1 and 2 of the UDP and the IPG.
- 9.34 Policies DEV1 and DEV2 of the UDP and policy SP10 of the CS 2010 state that the Council will ensure development create buildings and spaces of high quality design and construction that are sustainable, accessible, attractive, safe and well integrated with their surroundings. Policy DEV3 of the IPG seeks to ensure inclusive design principles are incorporated into new development.

Massing and scale

- 9.35 The proposed massing is well distributed across the site and is in keeping with the recent developments within the area, immediately opposite and along Cambridge Heath Road. In addition, the application site is bounded by railway infrastructure and there is no real sense of an established streetscape to this end of Three Colts Lane for the proposed development to respond to. In this regard, the height, massing and scale are considered to be appropriate response to its immediate and wider context.

Streetscene

- 9.36 Currently, the existing two storey buildings on the application site lack in street presence and so do other existing industrial/commercial buildings along Three Colts Lane. Therefore, it is important for any new development to provide interaction and street presence along Three Colts Lane, Coventry Road, Buckhurst Street and equally along Cambridge Heath Road. This would also ensure that the vision as set out in the Core Strategy for LAP1 & 2 is also met. This is primarily in connection with improving connectivity between green spaces by improving environment which connects the green spaces; and to improve the built environment in Bethnal Green.
- 9.37 Both of the proposed blocks A and B have commercial uses on the ground floor with residential above. Initially, the residential entrances were recessed and generally located where it was not highly visible. Concerns by Design Officer and Crime Prevention Officer were raised with this regard. The design and positioning of the residential entrances have been amended to be more prominent in terms of the location and presence along the streetscene. This is considered to improve the appearance and character of the existing streetscene along the roads the application site fronts.
- 9.38 The accompanied Design and Access Statement (DAS) states that the proposed external materials comprise of screen printed fire-cement rainscreen cladding. The rainscreen cladding is proposed to be screen printed to create a texture using green/blue and white coloured cladding. The texture is to be created through strips on each cladding panels. The Design and Access Statement indicates that the proposed buildings will be predominately green in colour, with subtle texture created by the stripes on each panel. It is considered that more details on the cladding material are required to better understand the proposal in the context of the surrounding, in particular long views along Coventry Road from the southern side of the railway viaduct. There is no objection in principle to coloured claddings, however there is a need for further consideration to the overall colour scheme and how they relate to the various streets the proposed building fronts. Therefore, the colour scheme and material panel will need to be agreed and could be conditioned if the scheme was acceptable.

Safety and Security

- 9.39 In accordance with DEV1 of the UDP (1998) and DEV4 of the IPG (2007), all development is required to consider the safety and security of development, without compromising the achievement of good design and inclusive environments. The Crime Prevention Officer from Metropolitan Police had concerns in relation to the recessed residential entrances which can encourage anti social behaviour and poor natural surveillance. In addition, further objection is also raised in relation to the servicing area which does not have any security measure. These issues have now been resolved through amendments as discussed above.

Amenity

Daylight and Sunlight

- 9.40 DEV2 of the UDP seeks to ensure that the adjoining buildings are not adversely affected by a material deterioration of their daylighting and sunlighting conditions. Supporting paragraph 4.8 states that policy DEV2 is concerned with the impact of development on the amenity of residents and the environment.
- 9.41 Policy DEV1 of the IPG states that development is required 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. The policy includes the requirement that development should not result in a material deterioration of the sunlighting and daylighting conditions of surrounding habitable rooms. This policy is supported by policy SP10 of the Core Strategy 2010.
- 9.42 Policy 4B.10 of the London Plan refers to the design and impact of large scale buildings and includes the requirement that in residential environments particular attention should be paid to privacy, amenity and overshadowing.
- 9.43 The application is accompanied by a Sunlight and Daylight Assessment. The assessment analysed the effect of the proposed development on the daylight and sunlight amenity to the following properties.
- 179 Cambridge Heath Road
 - 59a-63 Cudworth Street
 - 41-65 Three Colts Lane (student accommodation)
- 9.44 The only affected property out of those tested, is 41-65 Three Colts Lane which is a student accommodation located opposite side of the Three Colts Lane. An assessment of Vertical Sky Component and Daylight Distribution, and where room sizes were known the Average Daylight Factors were also analysed to the windows of neighbouring properties.

Vertical Sky Component (VSC) and Daylight Distribution (DD)

VSC measures the Daylight striking the face of the window and Daylight Distribution measures amount of direct sky visibility penetrating into the room. The BRE target value for VSC is that the window should not receive less than 27% as a result of the proposed development and less than 0.8 times the former value.

DD is the amount of direct sky visibility penetrating into the room. The BRE target value for DD is that the amount of sky seen in the area of a working plane (i.e. within the room) should not be less than 0.8 times area before.

Average Daylight Factor (ADF)

ADF works out a mathematical value of the likely average internal lighting conditions in a room. ADF can be more accurate measurement of average daylight in a room when dimension of a room is known. The British Standard sets out the minimum criteria of ADF and it recommends that if a predominately daylight appearance is required the following minimum standards should be achieved:

Kitchens = 2% *df* (*It can be argued that the this should only apply to family kitchens*)

Living Rooms = 1.5% *df*

Bedrooms = 1% *df*

The assessment finds that in assessing VSC together with the Daylight Distribution of the windows at 41-65 Three Colts Lane, 23 out of 87 windows located on the first, second and third floors to the building would fall below the BRE target values for VSC and Daylight Distribution combined. However, in testing the minimum ADF values in accordance with the British Standards for these rooms, only 3 windows would fall below the 1% *df* required for bedrooms. These windows fall between 0.03 and 0.09 below the minimum standards, and therefore it is considered to be minimal change and unlikely to be highly noticeable.

Whilst the results do show some windows in falling below the BRE standards for VSC and DD and British Standards for ADF, it is considered that the site location within an urban context. Whilst the proposal would evidently result in reduction of availability of daylight into some rooms of 41-65 Three Colts Lane, the given the urban context and the transient nature of the student accommodation, it is considered that a refusal on the grounds of a loss of daylight could not be substantiated in this instance.

Sunlight

BRE criteria for Sunlight requires for any window facing 90degrees due south should be capable of receiving at least one quarter (25%) of Annual Probable Sunlight Hours, include at least 5% of Annual Probable Sunlight Hours (APSH) during the winters months between 21st September and 21st March. It should be noted the during the Winter months, it is very difficult to achieving 5% of APSH in urban areas.

In assessing the Sunlight impact as a result of the proposed development, again 41-65 Three Colts Lane is the only property affected. It assessment shows that every window would achieve 25% of APSH, in the exception of 1 window. This window however meets the VSC, DD and ADF criteria in Daylight. 22 windows out of 87 will not meet 5% APSH during the winter months, however as explained earlier, this target is nearly impossible to achieve in urban areas.

Considering the context of the area, and the transient nature of the student housing, it is considered that the there is nothing particularly significant or material that would consider this as a reason for refusal alone, and that the impact of sunlight and daylight to the neighbouring properties is not considered to be significantly detrimental.

- 9.45 Turning to the proposed development, and whether the proposed units provide satisfactory daylight for the future occupiers. The assessment carried out finds that some of the living rooms and bedrooms would fall below the minimum British Standards for ADF. It is considered that given the urban context the application site is in, and majority of the units capable of achieving the minimum standards of ADF the proposal would still provide satisfactory means of accommodation for future occupiers.

Air Quality

- 9.46 The submitted Air Quality Assessment demonstrate that:
- there would be negligible impact during the construction phase subject to suitable mitigation measures;
 - The impact from the proposed two 30kW gas fired CHP plant is considered that the emissions to air on local air quality will be negligible due to its size.
 - The impact of the proposed redevelopment is considered negligible for NO₂ and PM₁₀.

Therefore, it is considered that the proposed redevelopment will not have significant impact to the local air quality.

Noise and Vibration

- 9.47 The submitted Noise Assessment demonstrate that the noise level measured for the purpose of assessing the site in accordance with Planning Policy Guidance 24 (PPG 24), indicate that the locations nearest to the railway and Cambridge Heath Road falls within Noise Exposure Category (NEC) C and the eastern façade of Block A which falls within NEC D.
- 9.48 PPG24 recommends NECs for new dwellings near existing sources of noise and indicates that Planning advice for new dwellings falling within NEC C that it should not normally be granted a planning permission. However where it is considered that permission should be given, conditions should be imposed to ensure a commensurate level of protection against noise.
- 9.49 PPG 24 also advises that new dwellings falling within NEC D, planning permission should normally be refused.
- 9.50 The supporting information states that the objective is to provide an internal environment that achieves the World Health Organisation (WHO) guidelines whilst ensuring that appropriate rates of ventilation can be achieved without the need to open windows although the proposed design means that the facility to do so will remain as an option for residents.

To this respect, the proposal will provide the following noise attenuation measures.

- A double glazed aluminium framed window to the façade which incorporates a 10/12/6.4 double glazed unit consisting of a 10mm thick pane of glass and a 6.4mm laminated pane of glass separated by a 12mm air gap. A further internal single pane unit of secondary glazing separated from the external window by a 150mm acoustically lined air gap is proposed.
- Background ventilation is proposed to be by way of a passive acoustic ventilator positioned above the window, but behind the rain-screen cladding and connected to a flat duct that runs above a 25mm plasterboard ceiling, the flat duct will be connected to a central fan unit and secondary attenuation, with air delivered via a supply grille in the ceiling.

The Council's Environmental Health Officer is satisfied with the mitigation measures.

- 9.51 Whilst the some of the areas would fall within NEC C and D the proposed mitigation measures are sufficient to ensure satisfactory level of residential amenity, in terms of noise.

Loss of Outlook and Overlooking

- 9.52 In terms of loss of outlook, this impact cannot be readily assessed in terms of a percentage or measurable loss of quality of outlook. Rather, it is about how an individual feels about a space. It is consequently difficult to quantify and is somewhat subjective. Nevertheless, in the opinion of officers, given the separation distances and roads separating the proposed development and the existing residential developments along Three Colts Lane; Buckhurst Street; Coventry Road; and Cambridge Heath Road and similarities in the heights of the buildings on Three Colts Lane, it is considered that the development would not create an unacceptable sense of enclosure or loss of outlook to habitable rooms near the site.

Micro-Climate

- 9.53 Planning guidance contained within the London Plan 2008 places great importance on the creation and maintenance of a high quality environment for London. Policy 4B.10 (Large-scale buildings – design and impact) of the London Plan 2008, requires that “*All large-scale buildings including tall buildings, should be of the highest quality design and in particular: ... be sensitive to their impacts on micro- climates in terms of wind, sun, reflection and over-shadowing*”. Wind microclimate is therefore an important factor in achieving the desired planning policy objective. Policy DEV1 (Amenity) of the IPG also identifies microclimate as an important issue stating that:

“Development is required to protect, and where possible seek to improve, the amenity of surrounding and existing and future residents and building occupants as well as the amenity of the surrounding public realm. To ensure the protection of amenity, development should: ...not adversely affect the surrounding microclimate.”

- 9.54 Within the submitted Wind Assessment, the applicant has assessed the likely impact of the proposed development on the wind climate. The report demonstrates that the wind environment with regards to pedestrian comfort would be improve in some areas around the site like Three Colts Lane and near by Corfield Street as a result of the development. However, that the southeast corner of the building towards Cambridge Heath Road, some deterioration would be observed. Therefore, a mitigation measure will be required to address the pedestrian comfort level which includes landscaping. It is also suggested by the assessment that location of entrances should be planned away from the south eastern corner of the building as avoid uncomfortable wind environments.
- 9.55 The proposal includes a residential entrance to Block A in the southeast corner. This is not acceptable and the impact on the microclimate conditions to the residential users of Block A is not satisfactory. It is therefore considered that the proposed development would create an unacceptable microclimate conditions to the residential users which should be mitigated through design.

Transport & Highways

- 9.56 In consideration of national policy, PPG13 ‘Transport’ seeks to integrate planning and transport from the national to local level. Its objectives include: promoting more sustainable transport choices; promoting accessibility using public transport, walking and cycling; and reducing the need for travel, especially by car. Both PPS1 ‘Delivering Sustainable Development’ and PPS3 ‘Housing’ seek to create sustainable developments.
- 9.57 Pursuant to regional policy, The London Plan (Consolidated 2008), 2A.1 ‘Sustainability Criteria’, state that developments should be located in areas of high public transport accessibility. In addition to this criteria Policy 3C.1 ‘Integrating Transport and Development’ also seeks to promote patterns and forms of development that reduce the need for travel by car. Policy 3C.2 advises that, in addition to considering proposals for development having

regard to existing transport capacity, boroughs should “...take a strategic lead in exploiting opportunities for development in areas where appropriate transport accessibility and capacity exists or is being introduced”. Policy 3C.19 ‘Local Transport and Public Realm Enhancements’ indicates that boroughs (as well as TFL) should make better use of streets and secure transport, environmental and regeneration benefits, through a comprehensive approach of tackling adverse transport impacts in an area.

- 9.58 In respect of local policy, the Core Strategy 2010, Policies SP08 and SP09 of the Core Strategy DPD (2009) broadly seek to deliver an accessible, efficient and sustainable transport network. UDP 1998 Policy T16 states that the consideration of planning applications will take into account the requirements of the proposed use and any impact posed. Policy T18 indicates that priority will be given to pedestrians in the management of roads and the design and layout of footways. Improvements to the pedestrian environment will be introduced and supported in accordance with Policy T19, including the retention and improvement of existing routes and where necessary, their replacement in new management schemes in accordance with Policy T21.
- 9.59 Having regard for the IPG, DEV17 ‘Transport Assessment’ (TA) states that all developments, except minor schemes, should be supported by a transport assessment. This should identify potential impacts, detail the schemes features, justify parking provision and identify measures to promote sustainable transport options. DEV18 ‘Travel Plans’ requires a travel plan for all major development. DEV19 ‘Parking for Motor Vehicles’ sets maximum parking levels pursuant to Planning Standard 3.

Parking

- 9.60 The site has a Public Transport Access Level (PTAL) of 6b which is the highest level demonstrating an excellent level of public transport service. The site is suitable for a permit free agreement, whereby future occupants of the residential units are to be prevented from obtaining parking permits. The applicant has indicated in their TA that they are willing to enter into such agreement and will be secured through s106 agreement.
- 9.61 The proposal provides a total of 26 car parking spaces in the basement level of which 16 spaces are in the form of double tiered stacker parking system. 10 levelled spaces are allocated as disable parking spaces. The basement layout is tight and manoeuvrability within the basement level would be difficult, also taking into account of the location of structural columns. Whilst this may not have a direct impact on the highway, the layout of the basement parking is unsatisfactory.

Cycle Parking

- 9.62 The application proposes a total of 158 cycle parking spaces at ground floor level in four separate storage spaces corresponding to the Cores of the building. The proposed level of cycle parking spaces is in line with Planning Standard 3: Parking and policy DEV16 of the IPG, which seek to secure 1 space per unit, and 1 space per 10 units for visitors. The applicant has provided the details of the cycle parking which in some instances is doubled tier parking and this demonstrates that the storage space can cater for the number of proposed cycle parking spaces to be provided on site.

Servicing and Refuse Collection

- 9.63 The two separate commercial use within Block A is to be serviced off Three Colts Lane by creating on-street loading bay. The works will be subject to s278 works and Highways have accepted that on-street layby could be accommodated in this particular location. The works can be secured through s278 works. The layby will not be designed to cater for articulated

lorries, and therefore, amalgamation of the two commercial units into one larger food retail use will be restricted by a condition.

- 9.64 The commercial units within Block B will all be serviced from the basement level. The proposal includes a service core from the basement to the street level for the individual commercial to access.
- 9.65 The location of refuse storage is appropriately located to allow refuse collection from the Highway.

Public Realm Improvements

- 9.66 The Council has programme of works to improve public realm mainly along Three Colts Lane. The works mainly consists of upgrading/new street furniture, road build outs, footway works, carriage way works, street trees along Three Colts Lane, Buckhurst Street and Coventry Road. S106 monies will need to be secured towards contributing to the works programmed for the area.

Energy Efficiency and Sustainability

- 9.67 The London Plan 2008 has a number of policies aimed at tackling the increasingly threatening issue of climate change. London is particularly vulnerable to matters of climate change due to its location, population, former development patterns and access to resources. IPG and the policies of the UDP also seek to reduce the impact of development on the environment, promoting sustainable development objectives.
- 9.68 Policy 4A.1 (Tackling Climate Change) of The London Plan 2008 outlines the energy hierarchy will be used to assess applications:
- Using less energy, in particular by adopting sustainable design and construction measures;
 - Supply energy efficiently, in particular by prioritising decentralised energy generation; and
 - Using renewable energy
- 9.69 Policy 4A.3 (Sustainable Design and Construction) states that boroughs should ensure future developments meet the highest standards of sustainable design and construction, seeking measures that will among other matters will:
- Reduce the carbon dioxide and other omissions that contribute to climate change;
 - Minimise energy use by including passive solar design, natural ventilation and vegetation on buildings;
 - Supply energy efficiently and incorporate decentralised energy systems and renewable energy; and
 - Promote sustainable waste behaviour in new and existing developments, including support for local integrated recycling schemes, CHP and CCHP schemes and other treatment options.
- 9.70 Policies 4A.4 (Energy Assessment), 4A.5 (Provision of heating and cooling networks) and 4A.6 (Decentralised Energy: Heating, Cooling and Power) of the London Plan 2008 further the requirements for sustainable design and construction, setting out the requirement for an Energy Strategy with principles of using less energy, supplying energy efficiently and using renewable energy; providing for the maximising of opportunities for decentralised energy networks; and requiring applications to demonstrate that the heating, cooling and power systems have been selected to minimise carbon dioxide emissions. Policy 4A.7 (Renewable Energy) of the London Plan goes further on this theme, setting a target for

carbon dioxide emissions as a result of onsite renewable energy generation at 20%. Policy 4A.9 promotes effective adaptation to climate change.

- 9.71 The applicant has broadly followed the energy hierarchy as set out in Policy 4A.1 of the London Plan 2008. The proposal aim to reduce total site carbon emissions by 33.2%. The proposal includes a combined heat and power (CHP) through the use of 2x30kWt units. This would provide primary heat and power to the development however two separate systems are proposed. Details of existing services should be provided to establish feasibility of a single energy centre connecting the two CHP's across Buckhurst Street. In addition, the size and location of the energy centres within each building should be provided together with the demand profile modelling to show the CHP have been sized to the appropriate thermal and electrical requirements of the development. This can be readily conditioned to explore if a single energy centre can be provided.
- 9.72 The proposal indicates that maximisation of the CHP system will deliver space heating and hot water and meeting 20% of the building energy through renewable technologies is not feasible. Therefore the proposal includes the installation of Air Source Heat Pumps (ASHP) to reduce carbon emissions, however further information is required to support that the ASHPs will not conflict with the loads required for optimal performance of the CHP systems.
- 9.73 It is considered that the proposed energy strategy is satisfactory and there is would be no objection.

Section 106 Agreement

- 9.74 Regulation 122 of the Community Infrastructure Levy Regulations 2010, brings into law policy tests for planning obligations which can only constitute a reason for granting planning permission where they meet the following tests:
- (a) The obligation is necessary to make the development acceptable in planning terms;
 - (b) The obligation is directly related to the development; and
 - (c) The obligation is fairly and reasonably related in scale and kind to the development.
- 9.75 Circular 05/2005 explains (paragraph B3) that planning obligations (s106 agreements or unilateral undertakings) are "*intended to make acceptable development which would otherwise be unacceptable in planning terms.*" Obligations may be used to prescribe the nature of the development, or to secure a contribution from a developer to compensate for loss or damage caused by a development or to mitigate a development's impact. The outcome of these uses of planning obligations should be that the proposed is made to accord with published local, regional, or national planning policies.

A planning obligation must be:

- (i) Relevant to planning;
 - (ii) Necessary to make the proposed development acceptable in planning terms;
 - (iii) Directly related to the proposed development
 - (iv) Fairly and reasonably related in scale and kind to the proposed development and
 - (v) Reasonable in all other respects.
- 9.76 The Council's Saved Policy DEV4 of the adopted UDP; Policy IMP1 of the Tower Hamlets Core Strategy and Development Control Plan September 2007; and Policy SP13 of the

adopted Core Strategy say that the Council will seek to enter into planning obligations with developers where appropriate and where necessary for a development to proceed.

- 9.77 The applicant has submitted a viability toolkit as part of the application submission and the Council appointed DVS consultants who have independently reviewed the toolkit. The submitted toolkit identifies that the proposal can provide 35% affordable if the number of Social Rented Units are significantly reduced and a reduced sum of £391,000, equivalent to £2,753 per residential unit. The total amount would not provide sufficient contribution towards the heads of terms identified below; and although the viability of the proposal has been tested to justify the level of the financial contribution, officers consider that given the lack of affordable housing and the inappropriate mix, neither proposal provides sufficient other benefits to outweigh the shortfall in financial contributions.

Leisure and Community Facilities.

- 9.78 A contribution of **£135,773** is sought towards Leisure and/or Community Facilities. The proposed development will increase demand on leisure and community facilities and our emerging leisure centre strategy identifies the need to develop further leisure opportunities to align with population growth.

Highways and Public Realm Improvement works along Three Colts Lane

- 9.79 A financial contribution of **£181,300** is sought to go towards public realm improvement works along Three Colts Lane; Buckhurst Street and Coventry Road. This includes:
- footway works along Three Colts Lane;
 - Carriageway works;
 - Entry treatments;
 - Drainage works; and
 - Street furniture, lighting and trees

The funding from other development coming forward near Three Colts Lane will be pooled together to support the programme of works.

Education

- 9.80 The proposed dwelling mix has been assessed for the impact on the provision of primary school places. The mix is assessed as requiring a contribution towards the provision of 19 additional primary school places @ £14,830 = **£281,770**. This funding will be pooled with other resources to support the Council's programme for the borough of providing additional places to meet need.

Health

- 9.81 Financial contribution of **£187,278** has been identified which can contribute towards the development of health and wellbeing centres within the Local Area Partnership 1 and 2.

Affordable housing

- 9.82 A provision of affordable housing together with an appropriate balance of tenures should be secured.

Crossrail

Although the scheme is in the Rest of London Crossrail Charging Zone, the trigger for a

s.106 payment would be a 500sqm net increase in commercial floor space (B1 or A Class uses). Given that there is a reduction in the level of commercial floor space, it is not considered that a Crossrail contribution is triggered.

Conclusions

- 9.83 All other relevant policies and considerations have been taken into account. The proposed development is considered provide inadequate affordable housing provision, inappropriate tenure split failing to recognise the need of the borough, insufficient planning obligations to mitigate against the development. Planning permission is recommended to be **refused** and defended at an appeal for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.