

<b>Committee:</b> Development	<b>Date:</b> 11April, 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b> 7.3
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<b>Report of:</b> Director of Development and Renewal  <b>Case Officer:</b> Mary O'Shaughnessy	<b>Title:</b> Town Planning Application, Conservation Area Consent and Listed Building Consent  <b>Ref No:</b> PA/11/03371– 3372 - 3373  <b>Ward:</b> Bow West
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## 1. APPLICATION DETAILS

**Location:** Site At Bow Wharf Adjoining Regents Canal And Old Ford Road, Old Ford Road, London

**Existing Use:**  
**Proposal:** Demolition of existing buildings to facilitate the redevelopment of the site to provide three buildings ranging in height from 3 - 6 storeys including Block A (part 3 part 4 storeys to the north of the Hertford Union Canal), Block B (6 Storeys to the south of the Hertford Union Canal) and Block C (4 storeys to the south of the Hertford Union Canal) to provide 34 residential units comprising 10 x 1 bedroom, 15 x 2 bedroom, 4 x 3 bedroom and 5 x 4 bedroom houses, 74.8 square metres of commercial floor space to be used as either Use Class A1, A2, A3,B1 or D1, including provision of one accessible parking space, cycle parking, public and private amenity space and associated works.

**Drawing Nos:**

- A1-01 REV01 (Site context plan)
- A1-10 REV01 (Ground floor plan)
- A1-11 REV01 (First floor plan)
- A1-12 REV01 (Second floor plan)
- A1-13 REV01 (Third floor plan)
- A1-14 REV01 (Fourth floor plan)
- A1-15 REV01 (Fifth floor plan)
- A1-20 REV01 (Building 'A' typical floor plans)
- A1-21 REV01 (Building 'B' typical floor plans)
- A1-22 REV01 (Building 'C' typical floor plans)
- A1-81 REV01 (Proposed site sections)
- A1-82 REV01 (Proposed site elevations)
- A1-91 REV01 (Proposed Building 'A' external elevations)
- A1-92 REV01 (Proposed Building 'B' external elevations)
- A1-93 REV01 (Proposed Building 'C' external elevations)
- A2-05 REV01 (Existing site plan)
- A2-10 REV01 (Demolition site plan)
- A2-81 REV01 (Existing site conditions)
- A2-82 REV01 (Existing site elevations)
- A4-01 REV01 (Proposed external envelope details)
- A4-02 REV01 (Proposed external envelope details)
- 2011-1129-AT-007 (Entry & Exit Manoeuvring a 7.9m Pumping Appliance)

**Documents:**

- Design and Access Statement, Reference: L2853/DS1004, dated October 2011, prepared by Lewis and Hickey.
- Planning and Impact Statement, dated October

2011, prepared by Dalton Warner Davis.

- Bow Wharf Heritage Assessment, prepared by Dalton Warner Davis.
- Air Quality Assessment, dated 14 September 2011, prepared by SKM Enviros.
- Extended Phase 1 Habitat Survey – Bat Habitat Suitability Assessment, Reference: H2OURB-BOWWHA-3385, dated July 2011, prepared by Ecosulis.
- The Code for Sustainable Homes – Strategic Report, Version 4, dated 3 October 2011, prepared by EcoConsulting (UK) Ltd.
- Energy Report – Bow Wharf – Version 8, dated 4 October 2011, prepared by EcoConsulting.
- Asbestos Survey Report, Reference: TM0088/1, prepared by Chemtest onsite.
- Transport Statement, October 2011, prepared by TTP Consulting.
- Statement of Community Involvement, October 2011, prepared by Quatro.
- Daylight/Sunlight Report, dated 12 October 2011, prepared by GVA Schatunowski Brooks.
- Geotechnical and Geoenvironmental Report, Report No. 36398-01, prepared by STATS Limited.
- Bow Wharf Proposed fire-fighting access to new residential accommodation, Issue 4, Document Reference: MT13753R, dated 10 October 2012, prepared by Exova Warringtonfire.
- Introduction to the Landscape Proposals, prepared by Outerspace.

<b>Applicant:</b>	H2O Urban (NO.2 LPP)
<b>Ownership:</b>	Canal and River Trust (formerly British Waterways)
<b>Historic Building:</b>	Stop Lock Bridge – Grade II Listed 2 Warehouses within the Bow Wharf Complex are locally listed - Former British Waterways Warehouse (3 storeys) Former Glue Factory (2 storeys)
<b>Conservation Area:</b>	Regents Canal Conservation Area (formerly within Victoria Park Conservation Area)

## **2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS**

### **Full Planning Permission – PA/11/03371**

- 2.1 The local planning authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the Core Strategy 2010, the London Borough of Tower Hamlets Unitary Development Plan 1998, the Council's Managing Development - Development Plan Document (Submission version May 2012) and modifications, Interim Planning Guidance (2007), adopted supplementary planning guidance and documents, the London Plan 2011 and the National Planning Policy Framework and has found that:
- 2.2 The proposal is in line with the Mayor of London and Council's policy, as well as Government guidance which seek to maximise the development potential of sites. As such, the development complies with policy 3.4 of the London Plan (2011), strategic policy SP02 of the Core Strategy (2010) and policy DM3 of the Managing Development - Development Plan Document (Submission version 2012) and modifications which seeks to ensure the use of land is appropriately optimised.

- 2.3 On balance, the proposed redevelopment of the site which includes the loss of employment floor space to provide a residential led mixed use development including some flexible floor space is considered acceptable. Given, the existing employment floor space is outmoded and has been vacant; its loss would be considered acceptable in this instance. Furthermore, the loss of employment floor space would be partially offset by the provision of a new commercial unit. Finally, the principle of a residential led development in this location is considered acceptable and would not compromise the function of the Bow Wharf Complex which offers a range of flexible commercial floor space. As such, the proposal accords with policies 4.1, 4.2 and 4.3 of the London Plan 2011, strategic policies SP02 and SP06, Core Strategy Development Plan Document 2010, saved policies DEV3, EMP1, EMP3, S7 and ART6 of the Unitary Development Plan 1998 and policies DM1, DM2, DM3 and DM15 of the Managing Development - Development Plan Document (Submission version 2012) and modifications. These policies seek to encourage economic development.
- 2.4 The proposal provides an acceptable amount of affordable housing and mix of units, in light of the viability of the scheme. As such, the proposal is in line with policies 3.8, 3.10, 3.11, 3.12, 3.13 of the London Plan 2011, strategic policy SP02 of the Core Strategy Development Plan Document 2010 and policy DM3 of Managing Development - Development Plan Document (Submission version 2012) and modifications which seek to ensure that new developments offer a range of housing choices.
- 2.5 On balance the proposal provides acceptable residential space standards and layout. As such, the scheme is in line with policy 3.5 of the London Plan 2011, strategic policy SP02 of the Core Strategy Development Plan Document 2010 and policy DM4 of the Managing Development - Development Plan Document (Submission version May 2012) and modifications which seek to provide an acceptable standard of residential accommodation.
- 2.6 On balance the proposal provides an acceptable amount of amenity space including private amenity space in the form of balconies and a new public open space in the form of a piazza adjacent to the existing tow path. This is in line with policies 3.6 and 7.18 of the London Plan 2011, strategic policies SP02 and SP04 of the Core Strategy Development Plan Document 2010, policies DM4 and DM10 of the Managing Development - Development Plan Document (Submission version May 2012) and modifications which seek to improve amenity and liveability for residents and protect existing and secure the delivery of new public open space
- 2.7 The design, appearance, height, scale, bulk, massing and layout of the proposal are considered to be acceptable. The proposed design and appearance has been developed taking account of the industrial heritage of the Bow Wharf site including the setting of the Regents Canal Conservation Area and the Grade II Listed Stop Lock Bridge. Furthermore, the proposed bulk, scale and massing is in keeping with the scale of development within the local and wider area. This is in accordance with policies 7.1, 7.4, 7.6, 7.8 and 7.9 of the London Plan 2011, strategic policy SP10 of the adopted Core Strategy 2010, saved policy DEV1 and DEV37 of the Unitary Development Plan 1998, policies DM24 and DM27 of the Managing Development - Development Plan Document (Submission version May 2012) and modifications and policy DEV2 the Interim Planning Guidance (2007). These policies seek to ensure high quality design within the borough whilst respecting the special architectural and historic interest of listed buildings and ensuring new development preserves or enhances the character and appearance of conservation areas.
- 2.8 The proposal would not give rise to any unduly detrimental impacts in terms of privacy, overlooking, outlook, sense of enclosure, sunlight and daylight, and noise upon the surrounding residents. Also, the scheme proposes appropriate mitigation measures to ensure a satisfactory level of residential amenity for the future occupiers. As such, the

proposal is considered to satisfy the relevant criteria of policy SP10 of the Core Strategy Development Plan Document 2010, saved policy DEV2 of the Unitary Development Plan 1998, policy DM25 of the Managing Development - Development Plan Document (Submission version May 2012) and modifications which seek to protect residential amenity.

- 2.9 Transport matters, including parking, access and servicing, are acceptable and in line with strategic policies SP08 and SP09 of the Core Strategy Development Plan Document 2010, saved policies T16 and T19 of the Unitary Development Plan 1998, policy DM20 and DM22 of the Managing Development - Development Plan Document (Submission version May 2012) and modifications which seek to ensure developments minimise parking and promote sustainable transport options.
- 2.10 The development, through the provision of renewables would result in a satisfactory reduction in carbon emissions and also seeks to secure the code for sustainable homes level 4 which is in accordance with the energy hierarchy within the London Plan 2011 (policies 5.1 to 5.7), strategic policy SP11 of the Core Strategy Development Plan Document 2011 and, and policy DM29 of the Managing Development - Development Plan Document (Submission version May 2012) and modifications, which seek to reduce carbon emissions from developments by using sustainable construction techniques and renewable energy measures.
- 2.11 Contributions have been secured towards the provision of affordable housing, education, community facilities, health, sustainable transport, employment and access to employment for local people in line with Regulation 122 of Community Infrastructure Levy Regulations 2010; strategic policy SP02 and SP13 of the Core Strategy Development Plan Document 2010; saved policy DEV4 of the Council's Unitary Development Plan 1998; and the London Borough of Tower Hamlets Planning Obligations Supplementary Planning Document (2011) which seek to secure contributions toward infrastructure and services required to facilitate proposed development.

#### **Conservation Area Application – PA/11/03372**

- 2.12 The proposed demolition works and proposed redevelopment is considered to preserve the character and appearance of the Regents Canal Conservation Area and would not cause significant harm to the setting of the Grade II Listed Stop Lock Bridge. The design, appearance and position of the proposed development would be acceptable and would not harm the significance of the heritage assets in accordance with National Planning Policy Framework, strategic policy SP10 of the Core Strategy 2010, saved policies DEV1, DEV28, DEV30 and DEV37 of the adopted Unitary Development Plan 1998 and policies DM24 and DM27 of the Managing Development - Development Plan Document (Submission version May 2012) and modifications. These policies seek to ensure appropriate design within the Borough which respects the local context and preserves the character and appearance of local conservation areas and the setting of listed buildings.

#### **Listed Building Application – PA/11/03372**

- 2.13 The proposed repair and alterations to the Grade II Listed Stop Lock Bridge are considered acceptable and would not adversely impact on the character, fabric or identity of the heritage asset which accords with the National Planning Policy Framework, strategic policy SP10 of the Core Strategy 2010, saved policies DEV1 and DEV37 of the Unitary Development Plan 1998 and policies DM24 and DM27 of the Managing Development - Development Plan Document (Submission Version May 2012) and modifications which seek to ensure that proposals protect the character and fabric of heritage assets and preserve the character and appearance of conservation areas.

### 3. RECOMMENDATION

3.1 That the Committee resolve to **GRANT** planning permission, listed building consent and conservation area consent subject to:

A. The prior completion of a **legal agreement** to secure the following planning obligations:

#### **Financial Contributions**

- a) A contribution **£105,065** towards education.
- b) A contribution of **£3,837** towards employment, skills, training and enterprise initiatives.
- c) A contribution of **£23,101** towards community facilities.
- d) A contribution of **£574** sustainable transport.
- e) A contribution of **£28,368** towards Health.
- f) A contribution of **£3218 (2%)** towards s.106 monitoring fee.

#### **Non- Financial Contributions**

- g) **29%** affordable housing by habitable room comprising 10 affordable rent residential units in building C and 3 shared ownership units in building B.
- h) The completion of a **car-free agreement**.
- i) **Access to employment** initiatives for construction through 20% of non-technical total construction jobs to be advertised through the Council's job brokerage service.
- j) An expectation that 20% of total value of contracts which procure goods and services are to be achieved using firms located within the borough.
- k) Any other obligation(s) considered necessary by the Corporate Director Development and Renewal.

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

3.3 That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

#### **Conditions for Full Planning Permission – PA/11/03371**

##### **Compliance Conditions**

- 1. Time limit – Five Years.
- 2. Compliance with plans - Development in accordance with the approved schedule of drawings and documents.
- 3. Hours of Operation of Commercial Unit.
- 4. Hours of construction (08.00 until 17.00 Monday to Friday; 08.00 until 13:00 Saturday. No work on Sundays or Bank Holidays).
- 5. Residential accommodation - compliance with Life Time Homes and 10% Wheel Chair Accessible.
- 6. Compliance with energy strategy.
- 7. No servicing from Old Ford Road.
- 8. Compliance with Arboriculture report and tree protection plan/measures.
- 9. D1 use restricted.

##### **Pre-Commencement Conditions**

10. No works shall commence until conservation area consent has been sought for the demolition of part of the chalet unit and the demolition works carried out.
11. No development shall commence until post completion testing of the fire access route has been carried out in conjunction with the Local Fire Authority.
12. Construction Management Plan including details of use of water for transportation of materials and waste during demolition and construction phases.
13. Contaminated Land.
14. Risk Assessment and Method Statement outlining all works to be carried out adjacent to the water.
15. Survey of the condition of the waterway wall and a method statement and schedule of work.
16. Full details of protection measures for listed bridge during construction.
17. S278.
18. Full details of scheme of lighting for the development demonstrating the lighting would have no adverse impact on biodiversity of the site and would result in a safe and secure development.
19. Full details of secure by design measures including details of lighting and CCTV.
20. Full details of hard and soft landscaping for the access route from Old Ford Road including details of how pedestrian safety would be prioritised and details of weight restriction measures for the Stop Lock Bridge.
21. Full details of hard and soft landscaping for the development as a whole to include planting and other measures to enhance biodiversity and high quality materials appropriate for the conservation area setting.
22. Full details of replacement trees to include Adler Trees.
23. Full details of specification and samples of all facing materials.
24. Full details of specification, samples and detailed design (including drawings at scale 1:20 of all balconies).
25. Full details of specification and detailed design (including drawings at scale 1:20 (plus sections) of detailed design of shop front to be installed prior to completion of development.
26. Full details of specification of stands and drawings at scale 1:20 of detailed layout. Stands to be Sheffield stands or similar.
27. Code for Sustainable Homes for residential units.
28. BREAAAM for commercial unit.
29. Full details of noise mitigation measures for proposed residential units.
30. Compliance with soft demolition techniques and timings with regard to protected species (bats and black red starts).
31. Biodiversity enhancement report and plan to include details of bird and bat boxes and enhancement to canal walls.
32. Full details of ventilation and extraction if required for commercial unit.

#### **Prior to Occupation Conditions**

33. Post-completion noise testing for residential units.
34. Full details of Delivery and Service Plan (SSP) including details of refuse and recycling management plan.
35. Secured by Design Assessment.
36. Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal

#### **Informatives**

1. Associated S106.
2. Associated Conservation Area Consent and Listed Building Consent.

3. Compliance with Environmental Health Legislation.
4. Compliance with Building Regulations.

#### **Conditions for Conservation Area Consent – PA/11/03372**

1. Time limit – Five Years.
2. No works shall commence until conservation area consent has been sought for the demolition of part of the chalet unit and the demolition works carried out.
3. No demolition works shall be carried out until a contract is in place for the redevelopment of the site.
4. Any access to or from the towpath, closures of the towpath or scaffolding oversailing the Canal & River Trust's land or water during the construction must be agreed in writing with the Canal & River Trust before development commences.
5. The applicant/developer should refer to the current Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust" to ensure that any necessary consents are obtained, and liaise with the Trust's Third Party Work's Engineer: <http://canalrivertrust.org.uk/about-us/for-businesses/undertaking-works-on-our-property>.

#### **Informatives for Conservation Area Consent – PA/11/03372**

1. Associated S106.
2. Associated Full Planning Permission and Listed Building Consent.
3. Compliance with Environmental Health Legislation.
4. Compliance with Building Regulations.

#### **Conditions for Listed Building Consent – PA/11/03373**

1. Time limit – Five Years.
2. Detailed drawings at scale 1:20 including sections where necessary of replacement wall including a method statement of how existing materials of merit such as coping stone will be retained and reused and schedule of works.
3. Detailed method statement for repair and painting of railings.
4. Dull details of weight restriction measures.

#### **Informatives for Listed Building Consent – PA/11/03373**

1. Associated Full Planning Permission and Conservation Area Consent.

- 3.3 That, if within 3-months of the date of this committee the legal agreement has not been completed, the Corporate Director Development & Renewal is delegated power to refuse planning permission.

## **4. PROPOSAL AND LOCATION DETAILS**

### **Background**

- 4.1 The Council refused planning permission on the 4 August 2009 (PA/09/00766) for the *"Demolition of existing buildings and redevelopment to provide two buildings of between four and eight storeys comprising 50 (13 x 1 bed, 31 x 2 beds and 6 x 3 beds) residential units and 322 square metres of commercial floorspace (Use Classes A1, A2, A3 or A4) including parking, loading, cycle parking, public amenity space and associated development"*.
- 4.2 A subsequent appeal by way of a Hearing was dismissed on the 2 November 2010 and the

Inspector considered that the main issues were the “*effect of the proposal on the character and appearance of the surroundings and the Regent’s Canal Conservation Area (CA), and whether the scheme would make satisfactory provision for affordable housing and family housing*”. The appeal was dismissed on the grounds that the proposal would neither preserve nor enhance the character or appearance of the Conservation area because the form and scale of the proposed development “*would dominate existing buildings at Bow Wharf and Royal Victor Place which have been carefully developed to reinforce the historic canalside character.*”

- 4.3 An application for Conservation Area Consent was also submitted for (PA/09/00767) “*Demolition of existing buildings in association with redevelopment of the site for mixed commercial and residential use*”, this was also dismissed given an acceptable redevelopment had not been agreed.
- 4.4 Following the appeal decision the applicant entered into pre-application discussions with planning officers and urban design officers in order to develop a scheme which addressed both the council’s reasons for refusals and the planning inspectorate. Applications were submitted in December 2011 and officers prepared reports to be presented to the Development Committee in March 2012 recommending approval. However, the item was removed from the agenda because of a late objection from London Fire Brigade. The applicant has been working with London Fire Brigade and planning officers in order to overcome this objection and these concerns have now been addressed which is discussed in detail within the main body of this report.

## **Proposal**

- 4.5 Planning permission is sought for the demolition of the existing buildings on site and the redevelopment to provide three new buildings on the site. Building A located on the north side of the Hertford Union Canal would rise from three to four storeys. Buildings B and C would be located on the south side of the Hertford Union Canal and would be six and four storeys in height.
- 4.6 Building A would be located on the north west side of the canal junction and comprises a part three part four storey block (including roof space accommodation) comprising 11 units ( 4 x 1 bed and 2 x 2 bed flats 5 x 4 bedroom three storey town houses).
- 4.7 Building B, located on the south east side of the canal is the largest part of the proposal and comprises a six storey building (also with roof space accommodation) comprising 16 residential units (5 x 1 bed and 11 x 2 bed flats), including 2 wheelchair accessible units.
- 4.8 Building C would comprise a four storey block that includes the proposed commercial use on the ground floor with seven flats on the upper floors, comprising 1 x 1 bed, 2 x 2 bed and 4 x 3 bed flats including the 2 wheelchair accessible units.
- 4.9 The proposal would be residential led and would provide 34 new flats and homes comprising a mix of 5 x 4 bedroom houses, 10 x 1 bedroom flats, 15 x 2 bedroom flats and 4 x 3 bedroom flats.
- 4.10 The proposal also includes the provision of a commercial unit measuring 74.8 square metres which would be located at the ground floor level of building C. This would have a flexible permission including Use Classes A1, A2, A3, B1 and D1.
- 4.11 The proposal would include the creation of new public piazza, together with associated works including landscaping, highway improvements, cycle parking, servicing and plant. The proposal would be a car free development.



- 4.12 The conservation area application seeks permission for the demolition of two unlisted buildings including a former warehouse building to the north of the canal and a single storey building at the southern boundary of the site.
- 4.13 Listed building consent is also sought for repair and improvement works to the grade II listed Stop Lock Bridge.

### **Site and Surroundings**

- 4.14 The application site is located on the western side of Grove Road adjacent to the junction with Old Ford Road. The site comprises the western most part of the Bow Wharf complex, an enclosed group of buildings with mixed uses including Class A1, A2, A3, B1 and D2. It is bounded by Grove Road to the east, the Hertford Union Canal to the north, the Grand Union Canal (Regents Canal) to the west and Wennington Road and Gardens, to the south.
- 4.15 The application site covers an area of approximately .24 hectares and comprises two separated plots of land that lie north and south of the Hertford Union Canal at its junction with the Regents Canal. The northern plot comprises a vacant single storey warehouse building that adjoins the towpath that runs along the northern boundary of the HertfordUnionCanal. The southern part of the site largely comprises an open plot of land that is used as a car park. A single storey building extends along the southern boundary of the site and this used to accommodate businesses.
- 4.16 Vehicular access to both parts of the site is via the narrow access road from Old Ford Road which leads to the 'Stop Lock Bridge' which is a Grade II Listed structure. Vehicular access is also possible from Grove Road. Access to the site by foot is via the main entrance of the Bow Wharf Complex from Grove Road, from the narrow access road from Old Ford Road and from the canal towpaths.
- 4.17 The appeal site is located within the newly designated Regents Canal Conservation Area (October 2008). It previously was located within the Victoria Park Conservation Area.
- 4.18 The proposed designation protects the special character of the banks of the Regent's Canal and specific canal features such as the locks, bridges, wharves, moorings and towpath all of which are evident within the appeal site.
- 4.19 The application site falls within an area of the Regents Canal which is considered to open in nature with Wennington Gardens to the south and Victoria Park to the north.
- 4.20 Adjoining the eastern boundary of the site are two locally listed buildings which make up the Bow Wharf Complex. The former British Waterways Warehouse rises to three storeys and is included on the Councils list of local buildings of architectural or historic interest. The former Glue Factory is also locally listed and is a large two storey former industrial building. Within the development there are also low rise pavilion style buildings.
- 4.21 Directly to the north of the HertfordCanal is Royal Victor Place which is a residential development which fronts the canal and rises from two to three storeys. To the north of Royal Victor Place, is a row of Grade II listed residential properties which face Victoria Park and are three storeys in height.
- 4.22 To the west of the site on the opposite side of the RegentsCanal is the Cranbrook Estate with buildings adjacent to the Canal rising to four storeys. From the junction of the Regents Canal with Roman Road to the junction with Old Ford Road to the north and within Victoria Park the nature of the canal is clearly identified by its open nature and low scale

development.

## Planning History

- 4.23 The following planning decisions are relevant to the application:  
Application Site – Given the scale of the site there is a lengthy planning history. Only the most relevant permissions are mentioned here.
- BW/93/37 Victoria Park Wharf and Park Wharf (now known as Bow Wharf) – the Local Planning Authority (LPA) **granted** planning permission, 18 November 1993 for the *“Change of use from industrial use to a Canalside arts and crafts village comprising mixed B1 and retail use with artist studios and ancillary music workshop and two restaurants. Provision of ‘Pavilion’ retail units, external alterations to existing buildings, boundary treatment and landscaping together with car parking.”*
- BW/94/62 Victoria Park Wharf and Park Wharf (now known as Bow Wharf) –the LPA granted planning permission on 20 March 1995 for the *“Removal of Condition 1, limiting the use of site for 5 years, imposed on planning permission granted on 18th November 1993 (Ref. No. TH.668/BW/93/97).”*
- APP/E5900/A/0 4/1159432, 1159733 & 1159434 Bow Wharf –The LPA **refused** full planning permission, conservation area consent and listed building consent on 26<sup>th</sup> July 2004 and these three & consents listed below were the subject of a public inquiry. The appeal was dismissed by the Planning Inspectorate on 31<sup>st</sup> May 2005.
- PA/02/951 The LPA **refused** full planning permission on the 26 July 2004 for the *“Demolition of existing buildings and redevelopment of the site to provide a part four and part five storey development (with mezzanine), comprising the provision of 9no. Class B1 units and 32no. Residential units, together with the erection of new first floor level pedestrian footbridge over the canal.”*
- PA/02/952 The LPA **refused** conservation area consent on the 26 July 2004 for the *“Demolition of a single storey warehouse on the north side of Hertford Union Canal and demolition of a single storey cottage on the boundary of Wennington Park to allow for construction of 9no. Class B1 units and 32no. Residential units.”*
- PA/03/293 The LPA **refused** listed building consent on the 26 July 2004 for the *“Reinforcement and restoration works to the existing bridge.”*
- APP/E5900/A/1 0/2121940 Bow Wharf – The LPA **refused** full planning permission on 4 August 2008 and this consent along with the conservation area consent listed below were the subject of a hearing. The appeal was dismissed by the Planning Inspectorate on 2 November 2010.
- PA/09/00766 The LPA refused full planning permission on the 4 August 2008 for the *“Demolition of existing buildings and redevelopment to provide two buildings of between four and eight storeys comprising 50 (13 x 1 bed, 31 x 2 beds and 6 x 3 beds) residential units and 322 square metres of commercial floorspace (Use Classes A1, A2, A3 or A4) including parking, loading, cycle parking, public amenity space and associated development.”*
- PA/09/00767 The LPA successfully defended at appeal an application for conservation area consent for the *“Demolition of existing buildings in association with redevelopment of site for mixed commercial and residential use.”*

## 5. 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:

### **Spatial Development Strategy for Greater London (London Plan) (2011) (LP)**

- 3.1 Ensuring equal life chances for all
- 3.2 Improving health and addressing health inequalities
- 3.3 Increasing housing supply
- 3.4 Optimising housing potential
- 3.5 Quality and design of housing developments
- 3.6 Children and young people’s play and informal recreation facilities
- 3.7 Large residential developments
- 3.8 Housing choice
- 3.9 Mixed and balanced communities
- 3.10 Definition of affordable housing
- 3.11 Affordable housing targets
- 3.12 Negotiating affordable housing on individual private and mixed use schemes
- 3.13 Affordable housing thresholds
- 4.1 Developing London’s economy
- 4.2 Offices
- 4.3 Mixed use development and offices
- 4.12 Improving opportunities for all
- 5.1 Climate change mitigation
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.5 Decentralised energy network
- 5.7 Renewable energy
- 5.8 Innovative energy technologies
- 5.9 Overheating and cooling
- 5.10 Urban greening
- 5.11 Green roofs and development site environs
- 5.12 Flood risk management
- 5.13 Sustainable drainage
- 5.14 Water quality and wastewater infrastructure
- 5.15 Water use and supplies
- 5.16 Waste self-sufficiency
- 5.17 Waste capacity
- 5.18 Construction, excavation and demolition waste
- 5.21 Contaminated land
- 6.1 Strategic approach
- 6.3 Assessing effects of development on transport capacity
- 6.4 Enhancing London’s transport connectivity
- 6.5 Funding Crossrail and other strategically important transport infrastructure
- 6.7 Better streets and surface transport
- 6.8 Coaches
- 6.9 Cycling
- 6.10 Walking
- 6.11 Smoothing traffic flow and tackling congestion

6.12	Road network capacity
6.13	Parking
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
7.7	Location and design of tall and large buildings
7.8	Heritage assets and archaeology
7.9	Heritage-led regeneration
7.13	Safety, security and resilience to emergency
7.14	Improving air quality
7.15	Reducing noise and enhancing soundscapes
7.18	Protecting local open space and addressing deficiency
7.19	Biodiversity and access to nature
7.24	Blue Ribbon Network
7.25	Increasing the Blue Ribbon Network for passengers and tourism
7.26	Increasing the use of the Blue Ribbon Network for freight transport
7.27	Blue Ribbon Network: supporting infrastructure and recreational use
7.28	Restoration of the Blue Ribbon Network
7.30	London's canals and other rivers and waterspaces
8.2	Planning Obligations
8.3	Community Infrastructure Levy

#### **Core Strategy Development Plan Document (September 2010) (CS)**

SP01	Refocusing on our town centres
SP02	Urban living for everyone
SP03	Creating healthy and liveable neighbourhoods
SP04	Creating a green and blue grid
SP05	Dealing with waste
SP06	Delivering successful employment hubs
SP08	Making connected places
SP09	Creating attractive and safe streets
SP10	Creating distinct and durable places
SP11	Working towards a zero-carbon borough
SP12	Delivering placemaking and (LAP 5 & 6 – Bow)

#### **Unitary Development Plan 1998 (as saved September 2007) (UDP)**

DEV1	Design Requirements
DEV2	Environmental Requirements
DEV3	Mixed Use Developments
DEV4	Planning Obligations
DEV12	Provision of Landscaping in Development
DEV13	Design of Landscaping Schemes
DEV15	Retention / Replacement of Mature Trees
DEV27	Demolition in Conservation Areas
DEV37	Listed Buildings
DEV46	Protection of Waterway Corridors
DEV48	Strategic Riverside Walkways and New Development
DEV50	Noise
DEV51	Soil Tests

DEV55	Development and Waste Disposal
DEV56	Waste Recycling
DEV57	Development Affecting Nature Conservation Areas
DEV63	Designation of Green Chains
DEV64	Strategic Riverside Walkway Designation
DEV65	Protection of Existing Walkways
EMP1	Encouraging New Employment Uses
EMP8	Encouraging Small Business Growth
T7	The Road Hierarchy
T16	Traffic Priorities for New Development
T18	Pedestrians and the Road Network
T21	Pedestrian Needs in New Development
T26	Use of the Waterways for Freight
S7	Consideration of Development of Special Uses
S10	Requirements for New Shopfront Proposals
S11	Use of Open Grills
OS1	Reservation of Sites
OS6	Designation of Metropolitan Open Land
OS9	Children's Play Space
ART6	Definition and Purpose
U2	Development in areas at Risk from Flooding
U3	Flood Protection Measures

**Managing Development Development Plan Document (submission version May 2012)  
with modifications (MD DPD)**

DM1	Development within the town centre hierarchy
DM2	Protecting local shops
DM3	Delivery homes
DM4	Housing standards and amenity space
DM9	Improving air quality
DM10	Delivering open space
DM11	Living buildings and biodiversity
DM12	Water spaces
DM13	Sustainable drainage
DM14	Managing waste
DM15	Local job creation and investment
DM20	Supporting a sustainable transport network
DM21	Sustainable transportation of freight
DM22	Parking
DM23	Streets and the public realm
DM24	Place-sensitive design
DM25	Amenity
DM26	Building heights
DM27	Heritage and the built environment
DM29	Achieving a zero carbon borough and addressing climate change
DM30	Contaminated land

**Interim Planning Guidance for the purposes of Development Control (2007) (IPG)**

DEV1	Amenity
DEV2	Character and Design
DEV3	Accessible and Inclusive Design
DEV4	Safety and Security
DEV5	Sustainable Design
DEV6	Energy Efficiency and Renewable Energy

DEV7	Water Quality and Conservation
DEV8	Sustainable Drainage
DEV9	Sustainable Construction Materials
DEV10	Disturbance from Noise Pollution
DEV11	Air Pollution and Air Quality
DEV12	Management of Demolition and Construction
DEV13	Landscaping and Tree Preservation
DEV15	Waste and Recyclables Storage
DEV16	Walking and Cycle Routes and Facilities
DEV17	Transport Assessments
DEV18	Travel Plans
DEV19	Parking for Motor Vehicles
DEV21	Flood Risk Management
DEV22	Contaminated Land
EE2	Redevelopment /Change of Use of Employment Sites
RT5	Evening and Night-time Economy
HSG1	Determining Residential Density
OSN1	Metropolitan Open Land
OSN2	Open Space
OSN3	Blue Ribbon Network and the Thames Policy Area
CON1	Listed Buildings
CON2	Conservation Areas
U1	Utilities

#### **Supplementary Planning Guidance/Documents**

Riverside Walkways (1998)  
Shop Front Design (1998)  
Canalside Development (1998)  
Landscape Requirements (1998)  
Designing Out Crime (2002)  
LBTH Planning Obligations Supplementary Planning Document(2012) (PO SPD)  
Regents Canal Conservation Area Appraisal (2009) (RCCAA)

#### **Government Planning Policy Guidance/Statements**

National Planning Policy Framework (2012) (NPPF)

#### **Community Plan**

The following Community Plan objectives relate to the application:

A great place to live  
A healthy and supportive community  
A safe and cohesive community  
A prosperous community

## **6. CONSULTATION RESPONSE**

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

6.2 The following were consulted regarding the application:

#### **LBTH Biodiversity Officer**

6.3 Although there is little of biodiversity interest on the application site itself, this is a key location for enhancing biodiversity. It lies at the junction of the two canals, both of which are

part of a Site of Metropolitan Importance for nature conservation. The Hertford Union Canal is also a key green corridor, linking the Grand Union Canal system, and Victoria and Mile End Parks, with the Lee Valley.

- 6.4 The Extended Phase 1 survey report does not address potential impacts of the development on the biodiversity of the canals. There is likely to be a minor adverse impact through shading, particularly of the Hertford Union Canal by building B, a 6-storey building on its southern side. The shading impact is not likely to be serious enough to constitute a reason for refusal of planning permission, but it does increase the importance of maximising biodiversity provision within the development.
- 6.5 The canals are important feeding areas and commuting routes for bats. Some species of bats avoid light, so there is a potential adverse impact from lighting the development, both during construction and after the buildings are occupied. Lighting should be designed to avoid light spillage over the canals. The removal of the proposed lighting on the south side of the canal (wall lights on building B and the lamp post), and use of directional light on building A to ensure lighting of only the tow-path, might be a way to resolve this issue.

**[Officer Comment:** Full details of external lighting for the development would be controlled via condition and seek to ensure there would be no light spillage onto the canal. If this is not possible further bat surveys would be required to establish if the types of bats roosting and using the flight path are affected by lighting ahead of agreeing a scheme of lighting for the site.]

- 6.6 The Extended Phase 1 Survey report identifies a small possibility that the existing buildings could be used occasionally for roosting by small numbers of bats. It is also possible that black redstarts could use them for nesting. To ensure no breach of protected species legislation, the buildings should be demolished during the winter (November to March inclusive). If this is not possible, soft demolition techniques with an ecologist present, as recommended in the Extended Phase 1 report, should be used. Additionally, black redstart surveys should be undertaken immediately before demolition if this is to take place between May and July inclusive. If black redstarts are found to be nesting on site, demolition of the building they are nesting in would have to be delayed until the young have fledged. This should be secured by condition.

**[Officer Comment:** The above matters would be controlled via condition as requested.]

- 6.7 Opportunities to incorporate biodiversity into the development are limited, particularly as Conservation Area considerations appear to rule out green roofs. In this respect, the landscape strip along the south side of the Hertford Union Canal is crucial. The planting scheme for the canalside strip needs to be completely re-thought to consist of locally-native species appropriate to the location.
- 6.8 An amended planting plan was submitted for review and the Biodiversity Officer has advised that he is broadly satisfied given it's a vast improvement over the original proposals and would include night-flowering plants which would attract moths and hence also be good for bats.

**[Officer Comment:** The applicant has provided an amended planting plan which addresses the Biodiversity Officer's concerns. Full details of landscaping to ensure the enhancement of biodiversity would be controlled via condition.]

- 6.9 Other possible ecological enhancements include incorporating bird and bat boxes into the new buildings (as recommended in the Extended Phase 1 report) and enhancing the canal walls. While this section of the Hertford Union is too narrow to allow rafts or baskets to

support marginal and emergent vegetation, British Waterways has apparently recently designed and approved methods of enhancing vertical canal walls without using up much space. This should be explored.

**[Officer Comment:** The provision of bird and bat boxes would be secured via condition. Where possible other types of biodiversity enhancement would be encouraged through the landscaping condition.]

#### **LBTH Sustainable Development Team**

- 6.10 Original comments provided raised concern about the proposed energy strategy. Following detailed discussions with the applicant and the submission of further information the sustainable development team are comfortable that the proposals offer an appropriate response to the adopted and emerging policy requirements.
- 6.11 Whilst the proposed energy strategy falls short of the requirements of emerging Policy DM29 of the MD DPD (which seeks a 35% reduction in CO2 emissions) the anticipated CO2 savings are in accordance with policy 5.2 of the LP and the applicant has demonstrated the CO2 savings have been maximised through energy efficiency measures and the integration of renewable energy technologies.
- 6.12 The applicant has provided a robust justification for the omission of a CHP and a communal gas system is also not considered feasible due to the scale of the development and site constraints (including the Hertford Union Canal).
- 6.13 Therefore, the CO2 savings proposed for this development are considered acceptable in this specific instance. The applicant has proposed to achieve a Code for Sustainable Homes Level 4 rating for all units which is also supported by Sustainable Development Team. The energy strategy (including the additional information) and Code for Sustainable Homes level 4 should be secured through appropriate conditions.

**[Officer Comment:** The above matters would be secured via condition as requested.]

#### **LBTH Development Design and Conservation**

- 6.14 The Urban Design Officer advised that following detailed discussion with the case officer no further objections to raise.
- 6.15 The Conservation Officer has advised the demolition proposed on the site has been accepted by the inspector and they do not propose to comment upon this further.
- 6.16 With regard to the Stop Lock Bridge, the works proposed include the resurfacing of the bridge with a resin bonded gravel, the removal of paintwork on the abutment (Hertford Union Canal Side), the demolition of the wall on the north-west side and its replacement with new section of wall and railings.
- 6.17 The repair of the surface with resin bonded gravel is to be welcomed as it allows the existing concrete within the structure to remain. In terms of the other works these are acceptable in principle. However, the current drawings provide insufficient detail of the proposed new section of wall and railings. It will be important that the wall matches existing originals in terms of the details. It is suggested that they be conditioned. The removal of paintwork could also usefully be conditioned.

**[Officer Comment:** Full details of the replacement wall will be controlled via condition as requested. Given, the principle of reinstating the wall is acceptable. Officers, consider



sufficient information has been provided at this stage and the final detail of the wall can be controlled via condition.]

### **LBTH Crime Prevention Officer**

6.18 Detailed discussion and site meetings took place between the Crime Prevention Officer and they have requested that the details be secured via planning condition.

- Lighting and CCTV would be required and the CCTV would need to be monitored through the management of the site. This is specifically required for the undercroft to Building C and the entrance to Building B. Clear signage explaining that people are being recorded via CCTV will also improve security here.
- Metal railings need to be robust and non-climbable and should only be accessible through a secure fob for residents only. Specifically in relating to Building A and Building B.

Other general Secure by Design Requirements (SBD) Tower Hamlets include:

- No Trades Buttons
- Laminated glass 6.4 mm to outer pane
- Letterboxes either in individual doors or in a bank in lobby (not outside through wall)
- Lockable window restrictors to all accessible windows
- All low defensive wall/railings to be designed so they cannot be sat upon
- All boundary walls/fences to be 2.4 meters high
- All external lighting to be photo-electric/dusk to dawn
- Internal lighting same unless no natural light in corridor in which case 50/50 scheme photo electric and detector

These standards are specific to crime problems/concerns in Tower Hamlets. All other SBD standards are shown at [www.securedbydesign.com](http://www.securedbydesign.com).

**[Officer Comment:** A lighting plan and CCTV plan would be secured as part of the landscaping condition. However, a balance between harm to biodiversity and secure by design requirements would need to be struck in assessing the final details of lighting for the development. Finally, a secure by design statement would be secured via condition. It is noted that the applicant has agreed to these recommendations. ]

### **LBTH Waste Management**

6.19 The Planning Application details that all refuse and recycling collections at the Bow Wharf Development will be managed privately by British Waterways (now the Canal and River Trust). As LBTH will not be collecting from this site, no objections have been raised to the planning application. It must however be noted that should the managing agents revert to LBTH collections for their domestic waste, LBTH are not in a capacity to collect compacted waste and other arrangements will need to be discussed.

6.20 Also for in case of future LBTH collections, the commercial units should have adequate storage for waste, segregated from residential units. Access to bin stores must be without hindrance from bollards, trees, parking bays or dropped kerb.

6.21 Capacity of bin stores should meet our Waste Planning Guidelines for both recycling and refuse. The wheeling distance from bin stores to collection vehicles should be less than 10 metres.

**[Officer Comment:** A waste and recycling management plan for both the residential and commercial users would be controlled via condition. This would also ensure sufficient

capacity and separate waste storage for different users.]

### **LBTH Housing**

- 6.22 Following an independent review of the applicant's viability toolkit, it has been established that the scheme cannot deliver more than 29% affordable housing. This is below the Council's minimum requirement of 35%, however policy does allow for viability to be considered.
- 6.23 The affordable element is split 83%:17% in favour of affordable rented, this is outside the Councils policy target of SP02 (4) 70%:30% split.
- 6.24 The unit mix within the affordable rented proposes 14% of one beds against a target of 30%, 29% of two beds against our target 25%, 57% of three beds against our target of 30%. The scheme proposes no four or five within this tenure type. Overall our SP02 target requires 45% affordable family housing within so we would find the higher provision of three beds acceptable.
- 6.25 Within the intermediate the applicant proposes to deliver 50% one beds against our target of 25%, 50% of two beds against our target of 50%. There is no provision of family units within the tenure type.
- 6.26 The applicant is proposing to deliver the rented element at Affordable rent. We need to see the rent assumptions to ensure they are in line with the parameters set by POD for that area.
- 6.27 This offer has undergone independent viability testing and on balance we would be supportive.

**[Officer Comment:** The applicant has confirmed that the rent levels would be in line with the parameters set by POD for that area.]

### **LBTH Environmental Health**

#### General

- 6.28 Premises must comply with relevant statutory requirements including the Housing Act 2004, or comply with relevant Building Regulations.

**[Officer Comment:** The applicant would be advised of the need to comply with relevant Environmental Health legislation via an informative.]

#### Noise and Vibration

- 6.29 The proposed development shall comply with the Tower Hamlets Construction Policy, the Control of Pollution Act 1974 and BS 5228: 2009 (Code of practice for noise and vibration control on construction sites) in order to ensure prevention of noise and dust nuisance and the infringement of the nuisance provisions set out in the Environmental Protection Act 1990. The applicant must also ensure that when construction begins that work is carried out only during the following hours: 8am- 6pm Monday to Friday. 8am – 1pm Saturdays. No working allowed on Sundays and Public Holidays.

**[Officer Comment:** Hours of construction and a Construction Management Plan (CMP) would be secured via condition.]

- 6.30 The application lacks any reference to the impact and implication of noise. An acoustic report examining the noise impact on the proposed development must be submitted to this department. The report shall demonstrate how noise exposure would be mitigated to ensure

that the development satisfies the design requirements of BS8233: 1999 (Sound Insulation and Noise Reduction for Buildings: (noise within premises and from adjacent premises)) and Approved Document E (ADE) of Building Regulation 2003 (Resistance to the Passage of Sound).

**[Officer Comment:** The site is not located directly adjacent to a busy road way or other noise source which would preclude the introduction of residential accommodation. Notwithstanding, details of noise insulation to ensure all residential units would comply would be secured via condition. The Environmental Health Officer has confirmed the use of conditions would be acceptable in this instance.]

- 6.31 The application proposes A3 use for part of the development in relation to commercial use. This would require separate planning application in particular to address the potential noise and smell nuisance that may result from the operation of an A3 premises. Planning for any A3 premises should therefore be considered separately and Environmental Health be consulted on such applications to ensure that specific requirements for 'high level' kitchen extract systems and effective noise abatement measures (via the submission of Noise Survey pursuant to BS4142:1997) are satisfactorily met.

**[Officer Comment:** The application seeks permission for a commercial unit which could be used for a range of uses including Use Class A3. It is noted that if an A3 use were to operate from the commercial unit full details of ventilation and extraction equipment would be required and this matter would be controlled via condition. An indicative location for a flue running internally within the building adjacent to the stair core has been proposed. If it were not possible to agree the siting and location of the necessary equipment the condition would not be discharged and an A3 use could not be commenced. Officers consider through the application of a condition requiring such details there is sufficient control to manage any potential impacts. The Environmental Health Officer has confirmed their agreement with this approach.]

#### Contaminated Land

- 6.32 The Environmental Protection Section is in possession of a report submitted in support of planning application PA/11/03371 for the development of the above site.
- 6.33 The document presents the results of intrusive investigation works that were undertaken at the site that revealed a hot spot of contamination above the assessment criteria. The Environmental Health Officer is in agreement with the recommendations contained within the report for remedial action via breaking the pathways and the importation of geochemically suitable soils in areas of soft landscaping. A condition is required on this application to ensure the developer carries out the outstanding works.

**[Officer Comment:** This matter would be controlled via condition as requested.]

#### **LBTH Highways**

##### Parking

- 6.34 The development proposals incorporate a single on-site disabled parking space which is welcomed. Other than this space the development is to be entirely car-free and this approach is also welcomed. In line with the Highway comments related to PA/09/00766, any future planning permission should be subject to a S106 car and permit free agreement.

##### Cycle Parking

- 6.35 It is stated within the submitted Transport Statement that a total of 38 cycle parking spaces in association with the residential units and a further 2 cycle parking spaces in connection with the commercial land use. Whilst this level of provision is supported, there is no information

outlining the type of stand to be utilised or demonstrating that the minimum number of stands can be accommodated in the areas shown. It is unusual for bin and bicycle storage areas to be shared as the Applicant currently proposes.

**[Officer Comment:** Full details of cycle and bin storage would be secured via condition. The applicant would be advised via an informative of the need to use a Sheffield stand or similar. Colleagues in Waste management have not raised an objection to the proposed bin storage.]

#### Servicing Arrangements

- 6.36 It is acknowledged that the proposed commercial unit (approximately 74.8 square metres sqm) is unlikely to generate large volumes of servicing trips. As identified in the submitted Transport Statement, the development proposals include provision for an area of hard standing adjacent to the proposed commercial unit which can be used by a transit van sized vehicle for the purposes of servicing. It is also possible for the proposed commercial unit to utilise the same servicing arrangements as the existing units on the site whereby vehicles can park in a designated area within the adjacent Bow Wharf car park and then transport the goods to the proposed commercial unit.
- 6.37 A Service Management Plan should be secured via condition to control the servicing (locations, size of vehicle using the area of hard standing, frequency of servicing movements and times during which servicing can take place). The Applicant is advised to avoid service vehicle movements along the access road during peak times of pedestrian and cyclist movement.

#### Refuse Arrangements

- 6.38 Comments pertaining to the suitability of the proposals for the storage and collection of waste should be obtained from the Waste Management team. Refuse collection activities will also have to be managed as part of the Delivery and Servicing Management Plan.

#### Other Comments

- 6.39 If the Case Officer is minded to grant Planning Permission, then Highways will seek a contribution towards public realm/highway improvement works. As identified in the previous Highway comments and within the Transport Statement submitted in support of the current application, works are required at the site access junction onto Old Ford Road and these are to be included as part of a S278 agreement. It is suggested that to review if any further measures be introduced within the site to secure improved/safe passage for pedestrians and cyclists along the access road. There do not appear to be any visibility splays for the site access junction onto Old Ford Road.

**[Officer Comment:** The Borough Highway Officer has confirmed that given this is an existing access route the main aim is to ensure this is improved. Whilst visibility splays would have informed the scale of work required by the S278 they are not essential in this instance subject to a s278 agreement being secured. As part of the hard and soft landscaping works which would be controlled via condition full details of measures to ensure this access route is a safe environment for all would be secured.]

#### Conclusions

- 6.40 In principle Highways have no objections, however further information is required regarding the cycle parking prior to a decision being reached on the application.
- 6.41 If planning permission is granted, please include the following:
- The Applicant is to enter into a S106 car and permit free agreement.
  - A Delivery and Servicing Management Plan is to be secured via condition.

- A Construction Management Plan is to be secured via condition.
- A condition requiring all private forecourt/areas to be drained within the site and not into the Public Highway should be included in any future planning permission. Details to be submitted to and approved by LBTH.
- A condition requiring a S278 agreement should be included.
- Footway and surrounding highway not be blocked during construction.
- All construction vehicles to comply with on-street restrictions.

**[Officer Comment:** These matters have been secured where appropriate, as detailed above.]

- 6.42 Following, the submission of amended access information to address London Fire Brigade Comments, the Borough Highway Officer advised that regarding revisions to the scheme in they have no further comments.

#### **LBTH Tree Officer**

- 6.43 Subject to suitable replacement trees which should include Adler no objection has been raised to the removal of existing trees.

**[Officer Comment:** This would be controlled via condition.]

#### **Olympic Delivery Authority (ODA)**

- 6.44 To date no comments have been received.

#### **Canal and River Trust (formerly British Waterways)**

- 6.45 The Canal and River Trust (formerly British Waterways) is a development partner in the joint venture development company H2O Urban, which has submitted these applications.
- 6.46 They note that the Environment Agency (EA) have requested by way of condition the need for a 5 metre buffer zone to the canal edge which they object to.

**[Officer Comment:** The EA, have confirmed via email that the purpose of the condition is to secure the existing landscaped strip is maintained and managed to promote Biodiversity. As such, a five metre buffer is not required.]

- 6.47 In recent comments received dated 20 November 2012, the Canal and River Trust, in their statutory capacity, have advised that they raise no objection to the proposals for the following reasons:
- Waterspace as the starting point for the design process;
  - Full public access to the water's edge as part of an integrated public realm, to include improvements to the towpath and accesses for cyclists and pedestrians;
  - Active ground floor uses that integrate with and respond to the waterside to create a unique and vibrant waterfront;
  - Visual and physical links to open up the site to the water's edge; and
  - Safe and enjoyable waterfront with natural surveillance and sensitive lighting.
- 6.48 They request the following conditions and informatives should planning permission be granted:
- Conditions
- Risk Assessment and Method Statement outlining all works to be carried out adjacent to the water.

- Full details of landscaping.
- Full details of any lighting and CCTV.
- Survey of the condition of the waterway wall and a method statement and schedule of works.

#### Informatives

- Any access to or from the towpath, closures of the towpath or scaffolding oversailing the Canal & River Trust's land or water during the construction must be agreed in writing with the Canal & River Trust before development commences.
- The applicant/developer should refer to the current Canal & River Trust "Code of Practice for Works affecting the Canal & River Trust" to ensure that any necessary consents are obtained, and liaise with the Trust's Third Party Work's Engineer: <http://canalrivertrust.org.uk/about-us/for-businesses/undertaking-works-on-our-property>.

**[Officer Comment:** These matters have been secured where appropriate, as detailed above.]

#### English Heritage

- 6.49 Comments with relation to the Full Planning Application (PA/11/03371), Conservation Area Consent Application (PA/11/03372) and Listed Building Application (PA/11/03373) advise that the applications should be determined in accordance with national and local policy guidance and on the basis of LBTH specialist conservation advice.

#### Environment Agency (EA)

- 6.50 The proposed development would only be acceptable if the following condition requiring the provision and management of a buffer zone along the Hertford Union Canal is imposed on any planning permission granted.
- 6.51 The EA initially advised that the buffer zone would need to be a minimum of five metres, however, have subsequently confirmed the purpose of the condition is to secure the existing landscaped strip and secure details of how it would be maintained and managed to promote Biodiversity.
- 6.52 Comments are also provided regarding light spill onto the canal and biodiversity enhancement.

**[Officer Comment:** The Canal and River Trust (British Waterways) objected to this condition however, following further comments from the EA it is evident that the existing landscaped strip which would be maintained would be a sufficient buffer zone. The detailed management of this strip to enhance biodiversity would be controlled via condition.]

#### Tower Hamlets Primary Care Trust (PCT)

- 6.53 They have sought a financial contribution of £393,151 which includes a capital contribution of £54,126 and a revenue contribution of £339,027.

**[Officer Comment:** Full details of how the financial contributions have been agreed are discussed within section eight of this report.]

#### Inland Waterways Association

- 6.54 To date no comments have been received.

## **Canalside Consultee Committee**

- 6.55 To date no comments have been received.

## **Thames Water**

- 6.56 To date no comments have been received.

## **London Fire and Emergency Planning**

- 6.57 Via letter dated 6 March 2012 the Fire Safety Officer stated that *"it has been identified that the requirements for fire appliance access and egress has not been satisfied."*

**[Officer Comment:** Following the receipt of these comments the application was withdrawn from the March 2012 Committee agenda to allow the applicant to resolve this issue. Subsequently a site visit was organised on 2 May 2012. During this site visit a fire engine accessed the site via the proposed route and the concerns of the Fire Safety Officer were discussed in detail.

- 6.58 Via letter dated 16 May 2012 the Fire Safety Officer stated that *"with reference to the recent site visit made to the above-mentioned site location a practical fire appliance access and egress trail was undertaken. I confirm that the process was considered to be conclusive that even under ideal circumstances access was not satisfactorily attained. The requirements of approved document B5 of Approved Document B could not be satisfied."*

**[Officer Comment:** Following receipt of these comments the applicant explored options to overcome the concerns. Whilst, the engine had been able to access the application site from the Grove Road entrance during the May 2 site visit the main issues included the level of obstruction along the route which meant that access was at a very slow pace. The applicant submitted amended drawings showing the proposal to demolish part of the first chalet and also provided further tracking.]

- 6.59 Via letter dated 13 November 2012 the Fire Safety Officer advised that *"I attach the new proposal for access which I am satisfied that the Fire Authority can now move ahead with provided that we are able to conduct, as before, the physical test to ensure that the revised plan can be proved. We recommend that this is undertaken as soon as practicable."*

**[Officer Comment:** Following receipt of these comments officers confirmed with the Fire Safety Officer that it would be necessary to assess the proposals based on the submitted tracking drawings given it would be unreasonable to require partial demolition of a building ahead of the grant of any consents for the future redevelopment of another part of the site. It was noted that should planning permission be granted a Grampian condition would be attached to any permission requiring the necessary demolition works to be completed first. It is also noted that should following the demolition of part of the chalet that the Fire Brigade are still not satisfied with access arrangements they could still take action under their legislation.]

- 6.60 Final comments were received via email dated 9 January 2013 stating that *"I note at this time that you are proposing to demolish part of the building adjacent to the fire path to allow Fire Appliance access in the event of an emergency and improve the current arrangement. However, this will not happen until a later date. While the current proposal is acceptable subject to this building being partially demolished it should be noted that the Fire Authority will consider enforcement action should following construction access not meet our requirements."*

**[Officer Comment:** Given, the Fire Safety Officer has noted that they are satisfied with the current proposal would be acceptable subject to the partial demolition of one of the chalet buildings officers consider that sufficient information has been submitted to assess this application. Should planning permission be granted a grampian condition would secure the demolition of part of the chalet building before any further works could be carried out. Furthermore, the condition would securer require a post demolition fire appliance access test to be carried out in conjunction with the Fire Safety Officer.]

#### **Lee Valley Regional Park Authority**

- 6.61 Following a review of the documents the Authority has no comments to make regarding this application.

#### **Greater London Industrial Archaeology Society (GLIAS)**

##### Comments on the Full Planning Application (PA/11/03371) and Conservation Area Application (PA/11/03372)

- 6.62 It is noted that the proposed scheme is of a lower density than the previous scheme but they still consider the scheme is too large so as to damage the special existing character of the site for the following reason.
- 6.63 The 3-storey former warehouse is one of the most distinctive buildings on the canals of east London. The proposed Building B would overpower it by its relative height, white its tiers of projecting balconies and crude mansard dormers would dominate the scene and distract from the warehouse's qualities. They suggest the building should be reduced by two storeys.
- 6.64 The present wharf has a feel of open space that supports the open character of views from Stop Lock Bridge. This would be lost, because of the scale of Building B. The proposed landscaped piazza would be tiny and would not offer mitigation.
- 6.65 The listed Stop Lock Bridge is an important surviving example of this type of cast iron bridge. It was not designed for heavy vehicles, so the northern access road carried a 3-tonne weight limit. Concern is expressed about the impact of the anticipated increase in traffic accessing the development over the bridge would have on this designated heritage asset. They request carefully designed physical width restriction measures at the beginning and end of the bridge to prevent all but the smallest vehicles passing over it.

**[Officer Comment:** It is noted that the applicant has agreed to install necessary weight restriction measures and this would be managed via **condition**.]

- 6.66 The narrows in the canal to the east of the Stop Lock Bridge is the 'stop lock' that was historically an important feature of this canal junction. Two lock gates are still there (under the water) although they are in a bad state of repair. It is requested that a condition be attached securing the repair of the stop lock gate.

**[Officer Comment:** The applicant has advised that the Canal and River Trust (formerly British Waterways) are looking into replacing the stop lock gates around the canal system as a standalone project. Restoration is outside the scope of this application and it is noted that the gates are not within the red line boundary for the application. GLIAS welcome that they will be restored and the applicant confirmed, this would be programmed to take place in 2013.

Detailed comments regarding design, impact on the conservation area and listed bridge are discussed within the main body of this report.]



Comments on Listed Building Application (PA/11/03373)

- 6.67 They welcome that the proposed approach to works to the bridge which would comprise re-surfacing with a resin bound surface dressing on and adjacent to the bridge. It is noted that the listed bridge should be a separate focal point from the proposed landmark tree given the bridge already provides a fitting landscape to announce the junction of the canals. Notwithstanding, the comments in the landscape plan, it is not considered that there is a conflict between keeping the parapet wall and having a second focus on the tree.

Replacement Wall

- 6.68 They have raised an objection to the proposed replacement of the north-eastern parapet wall by a railing. Furthermore, the present ungainly Fletton-brick wall should be replaced by one in London stock bricks to match the other corners. If a suitable piece of grit stone cannot be found to make the coping, the one simulated in artificial stone may be acceptable.

**[Officer Comment:** The applicant amended drawings to take account of these concerns.]

- 6.69 Following the review of amended drawings relating to the replacement brick wall a detailed exchange of emails took place which set out the exact detail required for the replacement wall and the concern that this is not at this stage fully reflected in the submitted drawings.

**[Officer Comment:** Whilst, the concerns of GLIAS are noted, officers consider that this level of detail could be secured via condition. Detailed drawings at scale 1:20 and or 1:50 would be required to show how the detail of the replacement wall matches and picks up on the detailing of the existing wall. Samples would also be required. GLIAS would be consulted as part of the discharge of condition.]

Weight Restriction

- 6.70 Comments regarding the need for width restriction measures such as bollards and masonry (which would need to be suitably designed) have been provided as part of the main application comments.

**[Officer Comment:**It is noted that the applicant has agreed to install necessary weight restriction measures and this would be managed via condition. Detailed comments regarding the works to the listed bridge are discussed within the main body of this report.]

## **7. LOCAL REPRESENTATION**

- 7.1 Consultation on this application included two rounds of consultation. The first round of consultation took place in November 2011. Following the receipt of amended drawings relating to fire access a second round of consultation was carried out in October 2012.
- 7.2 A total of 298 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. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses:	81	Objecting:	80	Supporting:	01
		(including 36 Pro			
		Forma Letters)			
No of petitions received:	1	objecting containing	152	signatories	
		0 supporting			

7.3 The following local groups/societies made representations:

- East End Waterways Group
- 36 Pro Forma letters of objection were received from the residents of Velletri and St. Gilles House.

7.4 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:

7.5 One letter of support was received which set out that they support the scheme which would be an efficient use of land. The development would promote vitality and viability of the Bow Wharf complex and the area generally. It appears that thought has gone into the design in relation to the surrounding designated heritage assets. In order to address concerns about access request improvements of the access arrangements including looking at lighting along the canal.

7.6 The following concerns were raised in the letters of objection to the scheme.

7.7 Conservation and Design

- Concern about demolition of existing buildings.
- The design, height and bulk of proposed blocks A, B, and C would be detrimental to the character and appearance of the Regent's Canal Conservation Area (failing to respect its open nature), the setting of the two locally listed industrial buildings and the setting of the Grade-II-listed Stop Lock Bridge.
- The 1901 Warehouse is one of the few surviving historic canal side warehouses in this area and is an example of a 'layby warehouse' and should remain the dominant and most visible building on the site.
- Concern about impact on views from Roman Road, Grove Road and Victoria Park and loss of visual amenity.
- Concern about principle of inset balconies along the eastern elevation of Building C which are directly adjacent to the tow path.
- Concern about principle of projecting balconies as used in Building B and C which would be alien to the industrial aesthetic and would impact upon the character and appearance of the conservation area setting and the Grade II Listed Stop Lock Bridge.
- Concern about maintaining historic open spaces in this part of the Conservation Area which was mentioned in the previous Inspector's Decision.
- Concern the current proposals do not address previous Inspector's comments.
- Suggest Building A should be replaced with a westward continuation of the existing three storey houses.
- Suggest Building B should be reduced in height by two stories.
- Suggest Building B's projecting balconies are reduced in length and width to reflect the pattern of the glazed loading doorways of the adapted 1901 warehouse.
- Suggest Building C, is shortened (which allows Fire Access from Wennington Green) and reduced in height to three stories.
- Limited benefit of new piazza due to size and furthermore it offers limited relief between buildings unlike the Cranbrook Estate which was sensitive arrangement of buildings with open spaces between them.
- Concern that the development is too modern looking and includes too much aluminium.

**[Officer Comment:** Please refer to the design section of the report which includes a full discussion of these matters. With regard to the suggested alternative scheme officers have assessed the merits of the application as submitted.]

7.8 Stop Lock Bridge

- Initially, concern was raised about the level of information provided for the listed building application.

**[Officer Comment:** During the assessment of the application further information was requested from the applicant which was provided which more fully details the scale and type of works proposed to the listed Stop Lock Bridge.]

- Concern about loss of wall and its replacement with railings, however, note amended drawings have been received and seek confirmation.

**[Officer Comment:** Amended drawings have been received and the resident was contacted and made aware of this both formally as part of re-consultation and informally over the phone.]

- Welcome that metal railing is being retained and painted black.
- Concern about impact of construction on the listed bridge and that post development the weight restriction would not be observed.

**[Officer Comment:** Please refer to the listed building section of the report which includes a full discussion of these matters.]

#### 7.9 Highways

- Concern about the impact of a car free and that in reality residents would secure parking permits.
- Concern about impact further housing would have on already congested buses and tubes in the local area.
- Concern about increased congestion on the roads and along the access route from Old Ford Road.
- Concern about increased congestion of cyclists on the canal tow path because this would be a car free development.
- Concern about safety of access route from Old Ford Road for pedestrians and cyclists.
- Concern about lack of visitor car parking.
- Concern about the impact of an increased number of deliveries on the surrounding highway network.

**[Officer Comment:** Please refer to the highways section of the report which includes a full discussion of these matters.]

#### 7.10 Fire Access

- Concern about safety of residents and others as a result of existing fire access routes.
- Concern that fire engines would access the site over the Stop Lock Bridge (which has occurred previously) and could cause damage given they exceed the weight limit.
- Suggest access is from Wennington Green instead.

**[Officer Comment:** Please refer to the Fire Access comments within section seven and to section eight of the report where this matter is discussed in full.]

#### 7.11 Amenity

- Residents of the Cranbrook Estate would suffer from loss of visual amenity of the established conservation views.
- Residents of Velletri House would suffer from loss of privacy and increased overlooking from the new development.
- Concern about loss of light to Twig Folly House.
- Concern about loss of daylight to Palmerston Court.
- Concern about outlook for residents of Royal Victor Place caused by Building A.
- Loss of sunlight to Royal Victor Place.
- Concern about increase in noise and pollution in the general area during construction

and works taking place on Saturday mornings.

- Concern about increased noise and pollution after the development is complete. Concern that noise carries more because of the canal and the situation would be exacerbated by residents using their balconies.
- Concern about inconvenience caused during construction works.

**[Officer Comment:** Please refer to the amenity section of the report which includes a full discussion of these matters.]

#### 7.12 Biodiversity

- Concern about loss of mature trees.
- Concern about impact of overshadowing of the canal (which forms part of the Blue Ribbon Network) and the impact this would have on local flora and fauna.
- Concern about loss of flora and fauna.
- Concern about impact of light pollution on bats that nest within the vicinity.

**[Officer Comment:** These matters are addressed in full within section seven of the report as part of the Tree Officer and Biodiversity Officer's comments and within the main body of the report.]

#### 7.13 General

- Concern about overdevelopment and increased density of the site.
- Concern about increased demand on utilities including water, sewers, telecoms, health, education, policing, fire brigade, rubbish collection and anti-social behaviour caused by over development and increased density.
- No further capacity for new homes in Tower Hamlets.
- Concern about the increased density and the negative impacts this would have included increased anti-social behaviour,

**[Officer Comment:** Please refer to the density section of the report which includes a full discussion of these matters. With regard to anti-social behaviour early consultation has been carried out the Crime Prevention Officer to ensure where possible this development would meet Secure by Design Standards (which would be secured via condition).]

- Concern about level of affordable housing at 12% which is below policy requirement of 35% and housing mix including lack of family homes.

**[Officer Comment:** Please refer to the housing section of the report which includes a full discussion of these matters.]

- The site is designated for Arts and Crafts and concern about allowing the principle of residential. Would prefer the site to be used for Arts and Crafts.

**[Officer Comment:** Please refer to the land use section of the report which includes a full discussion of these matters.]

- Concern that the commercial space would not be rented quickly and would remain vacant.

**[Officer Comment:** Officers note that there is a risk that when residential development comes forward that the commercial units may not be let as quickly. This is why the applicant has applied for a flexible permission which allows for a wide variety of users to take up the unit.]

- Concern about the type of retail user and that they could potentially detract from the village feel.

**[Officer Comment:** The unit would be less than 100 square metres which is considered to of a size and scale suitable for local shopping parades and out of town centre locations.]

- Exiting problem with rising debris in the canal which will be worsened.

**[Officer Comment:** The Canal and River Trust have confirmed that any issues with debris should be reported to them and that their maintenance team deal with any issues. They note that this site would be managed by a management company who would be able to deal with any issues that arise.]

- Concern about failure to use renewable energy.

**[Officer Comment:** The renewable energy proposals are discussed in detail within the main body of the report.]

- Request that conservation area consent should not be granted until a suitable redevelopment scheme has been agreed.

**[Officer Comment:** This is noted.]

7.14 The following issues were raised in representations, but they are not material to the determination of the application:

- Loss of views

**[Officer Comment:** It is noted that the loss of a private view is not a material planning consideration.]

- Impact on value of properties

**[Officer Comment:** It is noted that this is not a material planning consideration.]

7.15 The following procedural issues were raised in representations, and are addressed below:

- Officers note that five on line comments were received which do not relate to the application. The content is mostly political in nature. Given, the comments do not refer to the application in question, or include names and addresses; these comments have not been included.

- Comments relating to a listed building application to replacement the existing water pipe on the Stop Lock Bridge (PA/11/01950) are noted. This was granted listed building consent under delegated powers. It is noted that this application was separate from the current proposals.

- Residents of Old Ford Road consider it remiss that letters were not sent to them.

**[Officer Comment:** It is noted that the listed properties (numbers 236-256) were sent letters which are located directly to the north of the site. Properties further to the east along Old Ford Road were not sent letters. It is considered that the level of consultation was sufficient and exceeded both statutory requirements and the Statement of Community Involvement.]

- Comments were received outlining that they thought the public consultation was insufficient.

**[Officer Comment:** As noted at paragraph 7.1 two rounds of consultation were carried out for this application which included sending letters to local residents, erecting site notices and advertising the application in the local press. The scale of statutory consultation accords with statutory requirements and the Councils Statement of Community Involvement. It is noted that public consultation was carried out by the applicant ahead of submission. However, consultation at this stage is encouraged and not a requirement.]

## 8. MATERIAL PLANNING CONSIDERATIONS

8.1 The main planning issues raised by the application that the committee must consider are:

1. Land Use
2. Housing
3. Impact on Designated Heritage Assets
4. Character and Design
5. Amenity
6. Highways
7. Energy
8. Biodiversity
9. Energy & Sustainability
10. Biodiversity and the Green Grid
11. Contamination
12. Health Considerations
13. Section 106 Agreement
14. Localism Act (amendment to S70(2) of the TCPA 1990)
15. Human Rights Considerations
16. Equality Act Considerations

## **Land Use**

- 8.1 At national level, the NPPF (2012) promotes a presumption in favour of sustainable development, through the effective use of land through a plan-led system, driving sustainable economic, social and environmental benefits.
- 8.2 Delivering housing is a key priority both nationally and locally and this is acknowledged within the NPPF, Strategic Objectives 7, 8 and 9 of the CS and policy 3.1 of the LP which gives Boroughs targets for increasing the number of housing units.
- 8.3 Strategic policy SP02 of the CS sets Tower Hamlets a target to deliver 43,275 new homes (2,885 a year) from 2010 to 2025. The policy also sets out where this new housing will be delivered and identifies the Bow area as having potential for high growth.
- 8.4 The site does not have an allocation in the saved UDP nor the MD DPD. Taking this into account, and given the surrounding area is predominantly residential in character, it is considered that this development would be an acceptable use of previously developed land and would be in accordance with the above planning policies.
- 8.5 Strategic policy SP01 of the CS seeks to promote areas outside of town centres as places that support and assist in the creation of sustainable communities. This will be achieved by promoting areas outside of town centres for primarily residential uses as well as other supporting uses that are local in nature and scale.
- 8.6 The application site is designated for Leisure, Recreation, Arts/Craft, Retail and Water Recreation in the adopted UDP. This designation has not been carried forward by the adopted CS or the emerging MD DPD. Officers consider that the more recently adopted CS carries more weight and that the designation within the UDP is now out of date. However, this does not preclude that the proposal could not include uses which would be associated with leisure, recreation, arts/crafts, retail nor prohibit the use of the surrounding canal for water recreation.
- 8.7 Finally, it is noted that the principle of a residential led re-development of the site has not been in dispute as part of the assessment of either of the previous applications which were refused. The Inspector's decision letter dated 31 May 2005 concluded that *"it would be reasonable to allow a variation from the current designation, to allow proposed unrestricted B1 use, particularly as this would not preclude the original uses that were envisaged for this site."* Furthermore, the Inspector stated in his decision letter dated 2 November 2010 that *"I*

*accept that the appeal site is identified in planning policy as a development opportunity.*"As such, the principle of a residential led re-development of the site is considered acceptable and accords with national, regional and local policy.

- 8.9 Strategic policy SP06 of the CS and policies EMP1 and EMP8 of the UDP seek to maximise and deliver investment and job creation within the borough. This includes supporting the provision of a range and mix of employment uses and spaces in the borough by retaining, promoting and encouraging flexible workspace in town centre, edge-of-town and main street locations and encouraging and retaining the provision of units (of approximately 250 square metres or less) suitable for small and medium enterprises (SMEs).
- 8.10 Policy DM2 of the MD DPD, seeks to protect local shops and sets out criteria for the assessment of new retail uses outside of town centres.
- 8.11 Policy DM15 of the MD DPD resists the loss of active and viable employment uses unless it can be shown through a marketing exercise that the site has been vacant for approximately 12 months or that the site is unsuitable for continued employment use.
- 8.12 The site currently provides 85 square metres of Office floor space (B1) and 581 square metres of storage and distribution floor space (B8). The total amount of employment floor space is 666 square metres. The wider Bow Wharf Complex provides a mix of uses including A1, A2, A3, A4, B1 and D2 uses. The application proposes the redevelopment of the western part of the site to provide a mixed use scheme. The proposal includes the provision of one commercial unit which would be approximately 74.8 square metres and located at the ground floor of Building C. Consent is sought for a flexible use of this unit comprising retail (A1) or financial services (A2), restaurant (A3), office (B1), or non-residential institution (D1).
- 8.13 The northern part of the site is largely occupied by a vacant warehouse measuring approximately 581 square metres which was previously used as a brick store (B8). The brick store has been vacant for at least ten years and has been removed from the ratings list. The applicant notes this is because the Ratings Office agreed that the property would be uneconomic for repair due to the lack of demand. Marketing was undertaken however it was not possible to find occupiers for the store. Currell Commercial, who have acted as Agents for the properties have advised via letter dated 30 September 2011 that the lack of interest in the warehouse building *"is because the commercial space ... is not practical for a modern day occupier [and] the buildings suffer from restricted access and a lack of prominence"*. They also note the difficulty of servicing the warehouse building.
- 8.14 The majority of the southern part of the site is laid out as hard standing and used for informal car parking. Along the southern boundary of the site are a row of single storey work units (approximately 85 square metres) which have been vacant since April 2010. These units have been marketed without success.
- 8.15 The applicant proposes the creation of a flexible commercial unit measuring 74.6 square metres. This would mean the net loss of 597.4 square metres of commercial floor space. With reference to policy DM15 of the MD DPD the applicant has demonstrated that the employment floor space has been vacant for more than a year, has been marketed and due to its condition and location is no longer fit for purpose. As such, the loss of the existing employment floor space is considered acceptable.
- 8.16 The wider Bow Wharf Complex has a wide range of commercial uses and it is considered that the principle of a flexible commercial use would be acceptable. An active use adjacent to the canal would serve to activate the canal-side and could bring new customers into the wider complex. If an office use (A2/B2) or a non-residential institution use (D1) were to be

secured than it is noted that active shop fronts would need to be maintained. Furthermore, a condition would be attached to the permission to restrict the type of D1 uses allowed. This condition is required given an educational use or a community use would have a higher level of activity associated with the use which would need to be fully assessed as part of separate application.

- 8.17 Given, the proposed unit is small in scale and is in keeping with the scale of the smaller commercial units within the wider complex it would not affect the vitality and viability of nearby town centres (Roman Road East and West District Centres)
- 8.18 The principle of a residential led mixed use re-development of the site is considered acceptable. This is a largely residential location and given the justification for the loss of the employment floor space the principle of residential is considered acceptable.
- 8.19 In conclusion, the proposed loss of employment floor space is acceptable given the length of time the units have been vacant, actively marketed and the fact they are no longer fit for purpose. Moreover, the principle of a residential led mixed use re-development of the western part of the Bow Wharf site is considered acceptable. The proposed commercial unit would contribute to activity along the canal and is of a scale which is in keeping with the wider complex.

### **Density**

- 8.20 The NPPF stresses the importance of making the most efficient use of land and maximising the amount of housing. This guidance is echoed in the requirements of LP Policies 3.4 of the LP and strategic objection SO7 and strategic policy SP02 of the CS seek to ensure new housing developments optimise the use of land by associating the distribution and density levels of housing to public transport accessibility levels and the wider accessibility of that location. Table 3.2 of policy 3.4 of the LP provides guidelines on density taking account of accessibility and setting. Policy HSG1 of the IPG also seeks to maximise residential densities on individual sites subject to acceptable environmental impacts and local context.
- 8.21 The site has an average Public Transport Accessibility Level (PTAL) (3). For urban sites with a PTAL range of between 2 and 3, table 3.2 of the LP, suggests a density of between 200-450 habitable rooms per hectare. The proposed density would be 456 habitable rooms per hectare (Net site area), which is only marginally higher than the recommended standard.
- 8.22 In the simplest of numerical terms, the proposed density would appear to suggest a slight overdevelopment of the site. However, the intent of the LP and the IPG is to maximise the highest possible intensity of use compatible with local context, good design and public transport capacity.
- 8.23 It is important to note that density only serves as an indication of the likely impact of a development and as discussed in later sections of this report, the development does not present any symptoms of overdevelopment or have any significantly adverse impacts on the quality of the residential development. As such, it is considered that the proposal maximises the intensity of use on the site and is supported by national, regional and local planning policy, and complies with Policy 3.4 the LP and Policy SP02 of the CS which seek to ensure the use of land is appropriately optimised in order to create sustainable places.
- 8.24 It is noted local residents are concerned about the impact of any new development coming forward. However, it is noted that the impact of the development has been carefully considered to limit any adverse impacts through the use of conditions and through the provision of financial contributions to be used to delivery infrastructure in the surrounding area. To conclude, the density of development is considered acceptable in this location.



## Housing

- 8.25 Policy 3.3 of the LP seeks to increase London's supply of housing, requiring Boroughs to exceed housing targets, and for new developments to offer a range of housing choices, in terms of the mix of housing sizes and types and provide better quality accommodation for Londoners.
- 8.26 Policy SP02 of the CS seeks to deliver 43,275 new homes (equating to 2,885 per year) from 2010 to 2025 in line with the housing targets set out in the London Plan.
- 8.27 The application proposes 34 new residential units (Use Class C3) within three blocks.

### Affordable Housing:

- 8.28 Policies 3.10, 3.11 and 3.12 of the LP define Affordable Housing and seek the maximum reasonable amount of affordable housing taking into account site specific circumstances and the need to have regard to financial viability assessments, public subsidy and potential for phased re-appraisals.
- 8.29 Policy SP02 of CS seeks to maximise all opportunities for affordable housing on each site, in order to achieve a 50% affordable housing target across the Borough, with a minimum of 35% affordable housing provision being sought.
- 8.30 As detailed in table 1 below, the proposal provides 29% affordable housing provision by habitable room, or 10 units.
- 8.31 Table 1: Affordable Housing Provision

Unit Type	Affordable Housing				Market Housing		Total	
	Affordable Rent		Intermediate					
	Unit	Hab. Rm.	Unit	Hab. Rm.	Unit	Hab. Rm.	Unit	Hab. Rm.
1 bed flat	1	2	1	2	8	16	10	20
2 bed flat	2	6	2	6	11	33	15	45
3 bed flat	4	16	0	0	0	0	4	16
4 bed house	0	0	0	0	5	30	5	30
<b>Total</b>	<b>7</b>	<b>24</b>	<b>3</b>	<b>8</b>	<b>24</b>	<b>79</b>	<b>34</b>	<b>111</b>

- 8.32 The application as submitted proposed 14% affordable housing by habitable room which equated to four units. The was supported by a viability appraisal which sought to demonstrate that the provision of a policy compliant level of affordable housing (35%) and financial contributions in line with the S106 SPD would not be viable.
- 8.33 The submitted viability appraisal was independently assessed on behalf of the Council by DVS who advised that the development could support a higher level of affordable housing. The main area of disagreement related to the benchmark value for the land and construction costs.
- 8.34 Following detailed negotiations and sensitivity testing of different options it was established

that the scheme could provide 29% affordable housing by habitable room and financial contributions of £164,163 (the detail of which is discussed in full later in this report). This is the maximum reasonable amount of affordable housing and planning contributions whilst ensuring the scheme can be delivered and is viable. On balance, the provision of 29% affordable housing by habitable room is considered acceptable and accords with policy.

#### Housing Tenure:

- 8.35 With regard to the tenure of housing, the application proposes a mix of affordable rent (POD levels) and intermediate rent.
- 8.36 Affordable rented housing is defined as: Rented housing let by registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80% of the local market rent.
- 8.37 Intermediate affordable housing is defined as: Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (e.g. Home Buy), other low cost homes for sale and intermediate rent but does not include affordable rented housing.
- 8.38 In respect of policy DM3 of the MD DPD, it is considered that in this instance the provision of affordable rent product is justified in light of the viability issues discussed above. As part of the independent review of the applicant's viability toolkit, options to provide the units as social rented accommodation were fully investigated; however it was found that the change in tenure provision would render the scheme unviable and undeliverable. It is noted that the Council's Housing team are supportive of the provision of affordable housing.
- 8.39 The affordable element is split 75:25 in favour of affordable rented, this is broadly in line with the Council's policy target of 70:30, as set out in the strategic policy SP02 of the CS.
- 8.40 The scheme proposes to deliver the Affordable Rents, with rent levels in line with research POD undertook for the Council to ensure affordability. The LBTH Housing team supports this approach. The applicants rent levels shown below are inclusive of service charges.
- 8.41 Table 2: Affordable Rent Levels (POD) for E3

	1 bed (pw)	2 bed (pw)	3 bed (pw)	4 bed (pw)
Proposed development POD levels/E4 POD rent levels	£169.85 (inc. service charge)	£198.32 (inc. service charge)	£218.76 (inc. service charge)	£250.01 (inc. service charge)
Social Target Rents (for comparison Only)	£157.57 (including estimated £30 service charges)	£165.06 (including estimated £30 service charges)	£172.57 (including estimated £30 service charges)	£180.07 (including estimated £30 service charges)

#### Housing Mix:

- 8.42 Pursuant to Policy 3.8 of the London Plan, new residential development should offer genuine housing choice, in particular a range of housing size and type.
- 8.43 Strategic policy SP02 of the CS also seeks to secure a mixture of small and large housing, requiring an overall target of 30% of all new housing to be of a size suitable for families (three-bed plus), including 45% of new affordable homes to be for families.

- 8.44 Further to this, Saved Policy HSG7 of the UDP requires new housing to provide a mix of unit sizes where appropriate, including a substantial proportion of family dwellings of 3 bedrooms and above.
- 8.45 Policy DM3 (part 7) of the MD DPD requires a balance of housing types including family homes. Specific guidance is provided on particular housing types and is based on the Councils most up to date Strategic Housing Market Assessment (2009). Table three shows the proposed housing and tenure mix.

TABLE OVER PAGE

8.46 Table 3: Housing Mix

		Affordable Housing						Private Housing		
		Affordable Rent			Intermediate			Market Sale		
Unit size	Total Units	Unit	%	LBTH target %	Unit	%	LBTH target %	Unit	%	LBTH target %
1bed	10	1	14%	30%	1	25%	25%	8	33%	50%
2bed	15	2	29%	25%	2	75%	50%	11	46%	30%
3bed	4	4	57%	30%	0	0%	25%	0	21%	20%
4bed	5	0	0%	15%	0			5		
5bed	0	0			0			0		
<b>Total</b>	<b>34</b>	<b>7</b>	<b>100%</b>	<b>100</b>	<b>11</b>	<b>100%</b>	<b>100</b>	<b>24</b>	<b>100%</b>	<b>100</b>

- 8.47 Though there is an under provision of one beds within the affordable rented tenure, this is considered acceptable as it would lead to an above target provision of much needed family accommodation, providing a 57% provision against a 45% target, including 3 bed flats.
- 8.48 Within the intermediate tenure, there is an under provision of family housing, and an over provision of two beds and a policy compliant provision of one beds. However, this is offset by an over provision of family housing within the affordable rent tenure.

- 8.49 Within the market tenure there is an under provision of one beds which is offset by an over provision of two beds. The level of private family housing is broadly policy compliant.
- 8.50 With regard to the housing mix, on balance given that the proportion of family housing within the affordable rented tenures exceeds targets and within the intermediate and private tenure is broadly policy compliant, officers consider the housing mix acceptable.
- 8.51 On balance, it is considered that the proposal would provide an acceptable mix of housing and contributes towards delivering mixed and balanced communities across the wider area. Furthermore, the provision of 29% on site affordable housing is welcomed. Therefore, on balance, it is considered that the application provides an acceptable mix in compliance with Policy 3.8 of the London Plan (2011), Policy SP02 of the CS and Policy DM3 of the MD DPD which seek to ensure developments provide an appropriate housing mix to meet the needs of the borough.

### **Housing Layout and Amenity Space Provision:**

#### Housing Layout and Private Amenity Space:

- 8.52 London Plan policy 3.5 seeks quality in new housing provision. London Plan policy 3.5, the Mayor's Housing Design Guide, MD DPD policy DM4 and saved UDP policy HSG13 requires new development to make adequate provision of internal residential space.
- 8.53 Policy DM4 also sets out standards for new housing developments with relation to private amenity space. These standards are in line with the Mayor's Housing Design Guide, recommending that a minimum of 5 sq. m of private outdoor space is provided for 1-2 person dwellings and an extra 1 sq. m is provided for each additional occupant.
- 8.54 The proposed development is designed to the Housing Design Guide standards and therefore is acceptable in terms of internal space standards. Furthermore, each residential unit within the proposed development provides private amenity space in accordance with the housing design guide and policy requirements, in the form of balconies and gardens.

#### Communal Amenity Space and Child Play Space:

- 8.55 For all developments of 10 units or more, 50sqm of communal amenity space (plus an extra 1sqm for every additional 1 unit thereafter) should be provided. For a scheme of 34 units the minimum communal amenity space required would be 74sqm. The scheme does not include the provision of any communal amenity space.
- 8.56 Policy 3.6 of the LP saved policy OS9 of the UDP, strategic policy SP02 of the CS and policy DM4 of the MD DPD seeks to protect existing child play space and requires the provision of new appropriate play space within new residential development. Policy DM4 specifically advises that applicants apply LBTH child yields and the guidance set out in the Mayor of London's SPG on 'Shaping Neighbourhoods: Play and Informal Recreation' (which sets a benchmark of 10 sq.m of useable child play space per child).
- 8.57 Using the Tower Hamlets SPG child yield calculations, the overall development is anticipated to accommodate 13 children and accordingly the development should provide a minimum of 133 sq.m of play space in accordance with the LP and MD DPD's standard of 10sq.m per child. The application is not proposing any child play space.
- 8.58 The LP allows for the provision of appropriate and accessible facilities within 400 metres for 5-11 year olds and within 800 metres for 12 – 15 year olds. There is child play area located within Wennington Green which forms part of Mile End Park directly to the south of the site and various opportunities for play within Victoria Park to the north of the site.

- 8.59 The proposal does include the provision of a public piazza between building B and C which would include tables and chairs for a potential café use. The creation of this public piazza adjacent to the canal tow path would contribute to tow paths and to the activity within the wider Bow Wharf site. Priority in this instance has been given to the creation of a public piazza accessible to all over amenity space which would be restricted to use of the residents of the development.
- 8.60 It is noted that the site is located within in easy walking distance of public open space and child play space which would mitigate the impact of the lack of provision of on-site facilities. Consideration is also given to the provision of a public piazza between buildings B and C which would contribute to the public realm within the area and would provide on-site opportunities for recreational space. Because of the sites location priority in this instance has been given to creating public spaces between the buildings which are accessible to members of the public. Consideration has also been given to the fact that all of the new residential units include private amenity space in accordance with policy requirements. Finally, it is noted that the lack of on-site provision of play space and communal space has not previously been included as a reason for refusal of the scheme nor has this been included by either of the Planning Inspectors.

Wheelchair Housing and Lifetime Homes Standards:

- 8.61 Policy 3.8 of the LP and strategic policy SP02 of the CS require that all new housing is built to Lifetime Homes Standards and that 10% is designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users.
- 8.62 Across the development, 4 residential units are proposed to be provided as wheelchair accessible which is 11.76% of all units and accords with Council policy. The units are to be distributed across the intermediate and affordable rent tenures which is supported by LBTH housing. The level of provision exceeds policy standards and is considered acceptable. If planning permission is granted a condition would be attached to ensure that the 4 wheelchair accessible units are delivered within the scheme.

**Impact on Designated Heritage Assets**

Policy Context:

- 8.63 When determining listed building consent applications, section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 8.64 With regards to applications within conservation areas, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 8.65 Section 12 of the NPPF provides specific guidance on 'Conserving and Enhancing the Historic Environment'. Para. 131 specifically requires that in determining planning applications, local planning authorities should take account of:
- *“desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation,*
  - *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and*
  - *the desirability of new development making a positive contribution to local character and distinctiveness.”*

- 8.66 Guidance at paragraph 132 states that any consideration of the harm or loss requires clear and convincing justification as well as an assessment of the impact of the proposal on the significance of the designated heritage asset and establish if it would lead to substantial harm or loss (advice at paragraph 133) or less than substantial harm (advice at paragraph 134).
- 8.67 PPS5 Practice Guide also provides guidance and clarification to the principles of assessing the impact of the development proposals on heritage assets.
- 8.68 Parts 1-3 of strategic policy SP10 of the CS provide guidance regarding the historic environment and states at part 2 of the policy that the borough will protect and enhance heritage assets and their setting. Policy requires that proposals protect or enhance the boroughs heritage assets, their setting and their significance.
- 8.69 Policy DM27 part 2 of the MD DPD applies when assessing the proposed alterations to the Grade II Listed Stop Lock Bridge. The policy provides criteria for the assessment of applications which affect heritage assets. Firstly, applications should seek to ensure they do not result in an adverse impact on the character, fabric or identity of the heritage asset or its setting. Part (c) also applies given it seeks to enhance or better reveals the significance of the asset or its setting.
- 8.70 Policy DEV28 of the UDP and policy DM27 (3) of the MD DPD provide criteria for the assessment of proposals for demolition within a conservation area. Applications for demolition will be assessed on:
- “a. the significance of the asset, architecturally, historically and contextually;  
b. the condition of the asset and estimated costs of its repair and maintenance in relation to its significance and demolition, and to the value derived from its continued use;  
c. the adequacy of efforts made to retain the asset in use; and  
d. the merits of any alternative proposal for the site.”*

Designated Heritage Assets:

- 8.71 The Stop Lock Bridge is Grade II Listed and is a designated heritage asset and an important example of industrial heritage.
- 8.72 The English Heritage listing description for the bridge states that it dates from 1830 and that the bridge is of interest for its cast iron construction and for forming a significant feature at this late Georgian canal junction. The listing description describes the cast iron work as follows:-  
*“Cast iron span comprising seven arched, moulded beams with latticed deck plates between. Two tie-rods run through the span, which rests on brick abutments.”*
- 8.73 Bow Wharf and the Grade II listed ‘Stop Lock Bridge’ form part of the western end of the Regents Canal Conservation Area. The Conservation Area Appraisal advises that these important designated heritage assets have been included in the conservation area designation to protect the historic junction of the two canals and the setting of the listed bridge.
- 8.74 It continues to provide the following description of the bridge and it’s setting:  
*“This iron bridge was built C1830 over the entrance to the Hertford Union Canal to serve as a towing and accommodation bridge. Stone ramps up to the west part of the iron bridge take the Regent’s Canal towpath over the Hertford Union Canal; whilst the wider east part provided vehicular access from Old Ford Road (via a granite stoneway) to land on the south side of the canal which is now part of Bow Wharf.”*

8.75 The application site was originally located within the Victoria Park Conservation which was designated in March 1977. In 2008, following public consultation, the Victoria Park Conservation Area was amended and a new Conservation Area named Regents Canal Conservation Area was designated. The site is located in the Regents Canal Conservation Area.

8.76 Within the Bow Wharf complex to the east of the application site, the former British Waterways Building which is locally listed is approximately three storeys in height. It is noted that this is an industrial building. There is a second locally listed building within the Bow Wharf Complex which is similar in scale however it is located towards Grove Road.

Principle of alterations to Grade II Listed Stop Lock Bridge – Listed Building Application:

8.77 The applicant is proposing minor alterations to the Stop Lock Bridge which include painting the existing railings black (existing colour), applying a new light-grey resin bound gravel to the surface of the bridge, erection of a new 1.1 metre high brick wall with a grit stone coping and London Stock Brick to match the existing bridge wall.

8.78 It is noted that during the course of the application the proposed removal of the existing brick wall to the south of the bridge and its replacement with railings was removed to address concerns raised by officers, GLIAS and local residents.

8.79 The proposed repair works which include the addition of a resin bonded gravel to the existing concrete are considered acceptable given it would allow the existing concrete within the structure to remain. This would ensure that the structural integrity of the bridge and its important industrial features would be retained and limit any potential damage.

8.80 The original proposal involved the replacement of a wall adjacent to the bridge with railings which was not supported and amended drawings were submitted to address concerns. As such, the principle of the replacement of the existing wall with a new wall to match the existing better preserved walls adjacent to the bridge are considered acceptable. It is noted that GLIAS have requested that the final detail of the design of the new wall be submitted now. However, planning officers and the conservation and design officer both agree that this matter can be satisfactorily agreed via condition. This would include submitting detailed drawings at scale 1:20, a schedule of works, a method statement showing how existing important features such as the coping stone would be retained and reused and samples of the proposed materials to be used. GLIAS would be consulted on this condition.

8.81 With regard to the repair and repainting of the railings this would also be controlled via condition and would include a method statement for these works.

8.82 It is noted that GLIAS and local residents are concerned about damage to the Stop Lock Bridge which has a three tonne weight limit. The introduction of bollards has been suggested to ensure that larger vehicles would not use this access route.

8.83 A Construction Management Plan (CMP) would be controlled via condition and through this it would be possible to ensure that no breach of the weight limit would occur. A condition would also be sought seeking details of the protective measures required for the bridge during the different stages of construction.

8.84 On completion of the development, it is proposed that servicing would occur from Grove Road utilising the existing servicing arrangements used by the existing commercial units. The development is proposing one relatively small unit which it would not be anticipated would give rise to a large number of servicing trips. Notwithstanding, this would be controlled via condition restricting any servicing from Old Ford Road.

- 8.85 Finally, the development only includes one accessible car parking space and the car is within the weight limit allowed for the bridge.
- 8.86 The applicant has agreed to a condition setting out in detail the measures which would be used to ensure the weight limit would be adhered to.
- 8.87 To conclude, the proposed repair and alterations to the Grade II Listed Stop Lock Bridge are considered acceptable and would not adversely impact on the character, fabric or identity of the designated heritage asset which accords policy.

Principle of demolition – Conservation Area Consent:

- 8.88 The proposal includes the demolition of two buildings. Firstly, a small scale single storey rendered office building with a concrete slate tiled pitched roof and a brick gable located in the southern part of the site just to the north of Wennington Green.
- 8.89 The second building is a much larger structure that is in the north west bank of the Hertford Union Canal. It is brick built with pitch corrugated roofs and steel trusses and has an area of 586 sq.m and appears to date from the 1950's.
- 8.90 With regard to the criteria found within policy DM27 of the MD DPD, it is considered that these buildings have no architectural quality and are in state of disrepair. It is considered that these designated heritage assets have limited significance.
- 8.91 It is noted that the demolition was accepted in principle in the previous scheme given neither of these buildings contribute to the setting of the conservation area. The planning inspector concurred with this opinion at the appeal raising no objection to the demolition of the buildings provided that they were replaced with an acceptable development.
- 8.92 To conclude, the loss of these buildings would not result in substantial harm to the conservation area given the lack of significance of the buildings by merit of their lack of architectural quality and current state of repair. The proposed demolition would accord with policy given officers are supporting the redevelopment proposals.

**Design**

Policy Context:

- 8.93 Chapter 7 of the LP places an emphasis on robust design in new development. Policy 7.4 specifically seeks high quality urban design having regard to the pattern and grain of the existing spaces and streets. Policy 7.6 seeks highest architectural quality, enhanced public realm, materials that complement the local character, quality adaptable space and optimisation of the potential of the site.
- 8.94 Policy SP10 of the CS and DM23 and DM24 of the MD DPD, seek to ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds. Saved UDP policies DEV1, DEV2 and DEV3 seek to ensure that all new developments are sensitive to the character of their surroundings in terms of design, bulk, scale and use of materials.
- 8.95 The detailed policy discussion with regard to the listed building application and conservation area consent application also applies to the assessment of the redevelopment proposals. This includes assessing how the proposed development would affect the setting of the Grade II Listed Stop Lock Bridge and whether development would preserve or enhance the character and appearance of the Regents Canal Conservation Area and heritage assets such as the two locally listed buildings.



Proposal and Assessment:

- 8.96 The site is split into two segments by the Hertford Union canal linked by the Grade II listed Stop Lock Bridge. The site currently houses a redundant building to the north of Hertford Canal. South, of the Hertford Canal, the site is currently used as a car park and has single storey structures.
- 8.97 The proposed development is for the erection of three buildings. Building A would be between three and four storeys in height and would be located to the north of the Hertford Union Canal. It would be directly adjacent to Royal Victor Place which runs east of Building A and is between two and three storeys in height. Royal Victor Place is set back from the canal tow path and gives this stretch of the canal a very domestic scale. To the north of building A, is a row of Grade II Listed residential buildings which are three storeys in height, and face Old Ford Road and Victoria Park.
- 8.98 Buildings B and C would be located in the southern part of the site. Building B would rise to six storeys and building C would be rise to four storeys. Within the Bow Wharf complex to the east of the site, the former British Waterways Building which is locally listed is approximately three storeys in height. It is noted that this is an industrial building. There is a second locally listed building within the Bow Wharf Complex which is similar in scale however it is located towards Grove Road.
- 8.99 The site is located at the narrowest section of the Hertford Union canal. There is a difference in level between the two sides of the canal which are linked by the Grade II listed bridge.
- 8.100 Officers consider that the narrow width of the canals, the difference in level between the banks and the important junction between the two canals which is marked by the Grade II listed Stop Lock Bridge makes the spatial quality of this stretch of the canal distinct.
- 8.101 The wider context of the site is characterised by Wennington Gardens to the south which is open in nature and Victoria Park to the north. On the opposite side of the Regents Canal is the Cranbrook Estate. This is a series of buildings which rise from four stories to thirteen. It is noted that the larger scale development is set back from the Regents Canal.
- 8.102 The proposal includes a new public piazza to the south of Hertford Canal.

Comparison with the 2009 and 2002 refused schemes:

- 8.103 It is noted that the site has a complex planning history included two schemes which have been previously refused and successfully defended at appeal. Officers now consider that the applicant has presented a scheme which successfully addresses previous reasons for refusal and the Inspector's comments. Table four presents a brief comparison of the three schemes.
- 8.104 Table 4: Comparison between schemes

2002 Application	2009 Application	Current Application
<b>Proposal</b>		
Erection of two buildings between four and five storeys height to provide 9 Class B1 units and 32 Residential units.	Erection of two buildings between four and eight storeys in height to provide 322 square meters of commercial floor space and 50 residential units.	Erection of three buildings between three and six storeys to provide 76 square metres of commercial floor space and 34 residential units.

<b>Layout</b>		
<p>The proposal compromised five blocks (A, B, C, D and E) as detailed by the indicative layout plan below.</p> <p>The buildings to the north of the Hertford Union Canal comprised of block A and block B.</p> <p>Within the southern site, block C and D were located directly to the south of the Hertford Union Canal and to the west of the locally listed building. Block E was located adjacent to Wennington Gardens to the south.</p> <p>This layout included a new bridge linking the northern and southern parts of the site.</p>	<p>Building one to the north of the Hertford Union canal was located adjacent to the canal tow path with limited defensible space in front of the residential properties.</p> <p>Building two within the southern part of the site was set back from the Hertford Union canal creating a public piazza.</p> <p>See layout plan at figure 2 below.</p>	<p>Building A to the north of the Hertford Union canal is located adjacent to the canal tow path and includes defensible space.</p> <p>Building B and C are located within the southern part of the site and are set back from the Hertford Union Canal creating a public piazza along the boundary with the tow path of the Grand Union Canal.</p> <p>Building B extends from the existing locally listed British Waterways Warehouse.</p> <p>Building C, is located to the north of Wennington Green and extends towards the Canal tow path.</p>
<b>Height</b>		
<p>Block A was four storeys in height and block B rose to five storeys at the junction with the canals.</p> <p>Blocks D, C and E were five storeys in height.</p>	<p>Building one ranged in height from four to five storeys adjacent to the junction between the two canals.</p> <p>Building two ranged between five to eight storeys.</p>	<p>Building A ranges from three to four storeys adjacent to the junction between the two canals.</p> <p>Building B would be six storeys in height.</p> <p>Building C would be four storeys in height.</p>

Figure 1: Indicative layout of 2002 SchemeFigure 2: Indicative layout of 2009 Scheme



FIGURE 3 OVER PAGE

Figure 3: Layout of current proposal



#### Building A:

- 8.105 The massing of Building A has been carefully considered in light of previous Inspector's comments and taking account of the designated heritage assets which include the Stop Lock Bridge and the character and appearance of the Regents Canal Conservation area at this important junction of the two canals. Through out the pre-application discussions various options were explored with regard to development of this plot in order to ensure the scale of development responded to the level change which occurs at this important junction. By reducing the massing of the town houses it is considered they respond to the domestic scale of Royal Victor Place and do not appear as an overbearing addition to the canal tow path. Furthermore, the addition of defensible space ensures there is a transition between the public and private spaces.
- 8.106 Building A rises to four storeys as it terminates adjacent to the Stop Lock Bridge. The massing of Building A has been carefully considered at this point and the building appears as three storeys from the stop lock bridge and as four storeys from the lower canal tow path. This takes account of the change of level which occurs at this point. The design of building A includes pitched roofs which picks up on the treatment of Royal Victor Place and also the wider Bow Wharf complex. Building A would be a brick building and high quality materials would be required to ensure that the building preserves the character and appearance of the conservation area.
- 8.107 The Planning Inspector commenting on the 2002 scheme noted that:
- "a development of this height, so close to the narrowest part of the canal would bring about a dramatic change to the townscape of the area and I am concerned that it would have an overbearing and detrimental effect on the setting of the listed bridge and detract from the quite and low-key ambience of the tow path... I am not persuaded that the area next to the listed bridge is the right location for a development of this considerable mass and dominance."*
- 8.108 The Planning Inspector comment on the 2009 scheme noted that:

*“The scale of development would dominate existing buildings at Bow Wharf and Royal Victor Place which have been carefully developed to reinforce the historic canal side character”*

- 8.109 Officers, consider that the reduction in height of Building A to a part three part four storey building successfully addresses the important setting of the junction of the two canals and the setting of the Grade II Listed Bridge. In local views from Grove Road and from the Cranbrook Estate the development no longer appears as an overbearing addition which would dominate the view.

Building B and C:

- 8.110 The massing and scale of development for the southern part of the site have been carefully considered in order to ensure that they address the previous concerns raised. The 2009 scheme proposed a modern render eight storey block which dominated views and failed to preserve or enhance the character and appearance of the conservation area nor the setting of the Stop Lock Bridge.
- 8.111 During pre-application discussions various options were explored to establish how the layout and massing of the southern part of the site could be developed to ensure these important designated heritage assets were respected. This resulted in the proposal to include two buildings as opposed to one.
- 8.112 Building B would be six storeys in height and extends from the existing three storey locally listed warehouse. The reduction in height at this location and the fact that the building location is set away from the stop lock bridge ensures its setting is protected. The creation of the public piazza allows breathing space between the buildings which furthermore protects the setting of the listed bridge.
- 8.113 Building B, has been designed to respond to the industrial vernacular of the locally listed British Waterways Warehouse by picking up details such as pitched roofs and through the use of brick. It is noted that the massing of this building is greater than the locally listed warehouse which is of concern for local residents given views of the locally listed warehouse would be obstructed. Currently, the gable of the warehouse is viewed from the west and there are views through the trees of the northern elevation of the warehouse from the opposite side of the canal tow path. This view would in fact be maintained. As such, the main impact would be from the west because building B would obstruct the view of the gable of the building. However, officers consider that the massing of the building responds to the scale of the locally listed warehouse and the loss of views of the gable would be required in order to allow any development to come forward. The more important views of the southern elevation would not be affected. On balance officers consider that protecting the view of the gable of the locally listed building would be outweighed in this instance by the need to ensure that the Grade II Listed Stop Lock Bridge is protected and the overall setting of the conservation area.
- 8.114 Building B incorporates protruding balconies and officers have considered the design merit of the balconies and if alternatives could be explored. However, should the balconies be removed future residents would not have private amenity space. It would not be possible to provide winter balconies without affecting the internal space standards. Considering the amenity requirements of future residents the provision of balconies are required.
- 8.115 It is noted that this is a new development which seeks to preserve the character of the Regents Canal Conservation Area by including elements of the industrial vernacular of the canal side location in the detailed design of the building. This results in a modern residential building which preserves the character and appearance of the conservation area through the detailed design. This has included the use of pitched roofs and brick amongst

other things.

- 8.116 The intention was not to provide a pastiche building which seeks to faithfully replica the existing locally listed warehouse. Instead, the new building should be identified as a modern addition which is a residential building. The balance of how much the new building responds to the existing warehouse has been carefully discussed and officers consider that building B is a successful response and the inclusion of protruding balconies would be acceptable. The provision of balconies does not detract from the overall design of the proposed Building B and it is noted that balconies are features found in many riparian developments around Tower Hamlets and London. The detailed design of the balconies would be controlled via condition in order to ensure they are of a high quality design.
- 8.117 Building C, would be a four storey building and is located at the southern boundary with Wennington Green. The building would also have a boundary adjacent to the canal tow path which runs north south. The massing of this building at four storeys is considered acceptable and in keeping with the scale of development within the complex.
- 8.118 Concern has been raised about the siting of this building directly adjacent to the canal tow path and the impact this would have on the open character of the conservation area. The building layout is broadly similar to the existing building on the site albeit there is an increase in massing and scale. However, the massing of Building C has been kept at four storeys in order to ensure the building would not be an overbearing addition when viewed from the park to the south. This was one of the failings of the previous scheme given the eight storey building when viewed from the south appeared as a dominant addition. However, by splitting the massing into two smaller buildings which respond to the layout of the complex officers considered that this would be a successful design response both in terms of scale and layout.
- 8.119 With regard to the green grid the canal tow path provides a clear link between the open spaces along its length. Furthermore, the creation of a public piazza ensures that there is space between the buildings and through carefully hard and soft landscaping this piazza could contribute to the green and blue grid.
- 8.120 By merit, of the low scale of building C at four storeys, officers do not consider it would detract from the open character of the conservation area or affect the aims of the green and blue grid.
- 8.121 This building includes winter balconies along the western elevation directly adjacent to the canal tow path. It is not considered that the use of winter balconies would be an unacceptable design treatment adjacent to the canal. The fact the balconies form part of the main building envelope is welcome.
- 8.122 With regard to materials all three buildings would be brick which would be welcome. The final success of this scheme would rely on the provision of high quality materials for the both the buildings and the landscaped public piazza. With regard to the piazza, proposals currently include concrete sets which would not be acceptable. However, this matter would be controlled via condition to ensure high quality materials which respect the conservation area setting are used.
- 8.123 In conclusion officers have carefully considered the proposed development taking account of previous decisions and considered that the design, bulk, scale and massing are acceptable and in keeping with the scale of development within the surrounding area. The development would protect the setting of the listed bridge and would preserve the character and appearance of the conservation area.

## Amenity

- 8.124 Part 4 a and b of policy SP10 of the CS, saved policy DEV2 of the UDP and policy DM25 of the MD DPD seek to protect the residential amenity of the residents of the borough. These policies seek to ensure that existing residents adjacent to the site are not detrimentally affected by loss of privacy or overlooking of adjoining habitable rooms or have a material deterioration of daylight and sunlight conditions.
- 8.125 The nearest residential properties to Building A would be number 1 Royal Victor Place which forms part of a terrace of 10 houses with further mix of houses and flats continuing along the terrace.
- 8.126 To the northwest of Building A, there is a row of terraced properties which front Old Ford Road – numbers 236- 256. The shortest separation distance between this group of buildings and the boundary of the development site would be approximately 29.6 metres. Further, east of this terrace is Palmerston Court which has a separation distance of approximately 40 metres from the boundary of the development site.
- 8.127 To the southwest of the development on the opposite side of the canal is the Cranbrook Estate the nearest building to the development site would be Twig Folly House which over 18 metres from the boundary of the development site where building C would be located. Bridge Wharf which is to the northwest of has a separation distance of approximately over 40 metres from the boundary of Building A.

### Daylight, Sunlight and Overshadowing:

- 8.128 Guidance relating to daylight and sunlight is contained in the Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight - A Guide to Good Practice - Second Edition' (2011).
- 8.129 In respect of daylight, there are three methods of calculating the level of daylight received known as Vertical Sky Component (VSC), No Sky Line (NSL) and Average Daylight Factor (ADF). BRE guidance sets out that the first test applied should be VSC and if this fails consideration of the NSL test may also be taken into account.
- 8.130 BRE guidance in relation to VSC requires an assessment of the amount of daylight striking the face of a window. The VSC should be at least 27%, or should not be reduced by more than 20% of the former value, to ensure sufficient light is still reaching windows. The NSL calculation takes into account the distribution of daylight within the room, and again, figures should not exhibit a reduction beyond 20% of the former value.
- 8.131 In respect of sunlight, BRE guidance states that a window facing within 90 degrees of due south receives adequate sunlight if it receives 25% of annual probable sunlight hours including at least 5% of annual probable hours during the winter months.
- 8.132 In terms of permanent overshadowing, the BRE guidance in relation to new gardens and amenity areas states that *"it is recommended that for it to appear adequately sunlit throughout the year, at least half of a garden or amenity space should receive at least 2 hours of sunlight on 21st March"*.
- 8.133 A Daylight and Sunlight Report has been submitted as part of the application documents. The main residential property within the vicinity of the site is Royal Victor Place. Numbers 1 – 3 were tested and the Daylight and Sunlight Report demonstrates that all windows save one at ground floor level retain in excess of 27% VSC which accords with guidance. Given, there is only one failure and this is to a window which serves a dwelling house with dual aspect on balance the impact on daylighting to existing residents is considered acceptable.

8.134 With regard to the proposed development all of the rooms would receive acceptable levels of daylight and sunlight and accord with BRE guidance.

8.135 It is noted that other residents are also concerned about the impact of the proposed development with regard to loss of daylight and sunlight. However, by merit of the separation distances of these properties all of which are over 18 metres away from the development site there would be no impact.

Sense of Enclosure, Outlook, Privacy and Overlooking:

8.136 Focusing first on Royal Victor Place which is the nearest residential property to Building A, it is not considered that there would be an adverse impact with regard to sense of enclosure or outlook given the proposed building A is a continuation of the terrace with windows facing in east and west. Furthermore, the massing of building A at three storeys would not result in an overbearing relationship to 1 Royal Victor Place which is a two storey property.

8.137 With regard to privacy and overlooking, it is not considered that the proposed development would result in a loss of privacy or increase in overlooking for existing residents of Royal Victor Place. The separation distance from the location of building B to 1 Royal Victor Place would be approximately 21 metres which exceeds the recommendation of policy which recommends a minimum separation distance of 18 metres to protect residential amenity. It is noted that Building B would have balconies along this elevation however, given the separation distance which exceeds the minimum guidance officers do not consider that this would result in an adverse impact on the amenity of existing residents.

8.138 With regard to residents who have concerns about overlooking and loss of privacy located in Twig Folly House on the opposite side of the canal, officers do not consider that there would be an adverse impact on their amenity by merit of the separation distance which exceeds the minimum guidance of 18 metres. Concern has also been raised about the inset balconies proposed for Building C, however, officers do not consider there would be material loss of privacy or increase in overlooking by merit of the separation distance.

8.139 With regard to the proposed residential units, the standard of amenity would be acceptable. The scheme has been carefully designed to ensure that there would be no direct overlooking between habitable windows.

Noise and Vibration:

8.140 Residents have raised concern about the impact of the proposed development with regard to noise. This relates to noise during construction and the perceived impact from an increase in noise once the development would be completed from both the new residents and the commercial unit.

8.141 Firstly, with regard to noise during construction this matter is controlled by environmental health legislation which restricts the hours of construction to between 8 am – 6pm Monday – Friday and 8am – 1pm on Saturdays. Given, the level of concern of residents this could be attached as a condition to the planning permission as well.

8.142 With regard to the proposed commercial unit, it is noted that the hours of operation would be controlled via condition. It is proposed to allowing trading from 7am – 10pm on any day. The outdoor seating area would be restricted to 7am – 9pm on any day. It is noted that residents have raised concern about noise travelling across the canal and that they have previously had issues with other evening and night time uses within the Bow Wharf complex. However, officers, consider by managing the hours of operation to restrict late evening operation that this would manage the level of impact.



- 8.143 Finally, in line with Environment Health requirements the details of any plant and ventilation equipment for this use would be controlled via condition.
- 8.144 With regard to proposed residential units a report setting out how the development would have be acceptable with regard to noise insulation and post completion testing would be required via condition.
- 8.145 To conclude, the proposed development would not give rise to any unduly detrimental impacts in terms of privacy, overlooking, outlook, sense of enclosure, sunlight and daylight, and noise upon the surrounding residents. Also, the scheme proposes appropriate mitigation measures to ensure a satisfactory level of residential amenity for the future occupiers which accords with policy.

### **Transport, Connectivity and Accessibility**

- 8.146 The NPPF and Policy 6.1 of the London Plan 2011 seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 also requires transport demand generated by new development to be within the relative capacity of the existing highway network.
- 8.147 Saved UDP policies T16, T18, T19 and T21, CS Policy SP08 & SP09 and Policy DM20 of the MD DPD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.
- 8.148 The site has an average public transport accessibility level (PTAL) of 3 (1 being poor and 6 being excellent). The application is supported by a Transport Statement (October 2011, prepared by TTP Consulting). The Borough Highway Officer is in support of the application as set out within section six of this report.

#### Car Parking:

- 8.149 Policies 6.13 of the London Plan, saved policy T16 of the UDP, strategic policy SP09 of the CS and policy DM22 of the MD DPD seek to encourage sustainable non-car modes of transport and to limit car use by restricting car parking provision.
- 8.150 The most up to date parking standards are found within Appendix 2 of the MD DPD. Parking standards are based on the PTAL of a given site. This application has proposed no onsite car parking aside from one accessible space which accords with policy. Vehicular access would be from Old Ford Road. It is recommended that the development would be secured as permit free to prevent future residents from securing parking permits for the local area. This would be secured via the s106 agreement.

#### Provision for Cyclists:

- 8.151 In accordance with cycle parking requirements, 38 cycle parking spaces have been provided in various storage areas around the site. This provision includes visitor parking to serve the development. The proposal therefore complies with London Plan policy 6.13.

#### Servicing, Deliveries and Waste:

- 8.152 London Plan Policy 6.13 states that developments need to take into account business delivery and servicing.
- 8.153 The scale of the proposed commercial unit is such that it is not expected to generate a significant numbers of delivery movements. Notwithstanding, the design of the public

piazza is such that it would allow sufficient turning space for a transit van adjacent to the accessible parking space. Furthermore, the existing servicing bay within the Bow Wharf Complex could also be used and goods trollyed to the new commercial unit. All servicing would be from Grove Road in order to avoid use of the Stop Lock Bridge which has a weight limit. This would be secured via condition. Furthermore, a Delivery and Service Plan (DSP) would be secured via condition.

- 8.154 Full details of the waste, refuse and recycling would also be managed and co-ordinated through a Delivery & Servicing Plan (DSP) to be prepared and submitted prior to occupation of the development.
- 8.155 Notwithstanding the above, the scheme shows adequate storage facilities on site to serve the proposed development and outlines a feasible strategy for the collection of waste from Grove Road. Waste would be stored in the allocated waste and recycling stores within each building and moved on collection day to the storage area in the Bow Wharf Complex. This would be managed by the management company and would ensure that no refuse truck would be accessing the site using the Stop Lock Bridge.

#### Fire Access:

- 8.156 Fire access to the proposed development would be from Grove Road. Detailed discussions and site visits have taken place with the Fire Brigade and the applicant as detailed in section six of this report. In order to address the concerns of the Fire Brigade regarding the speed at which a fire appliance could access the site it is proposed to demolish part of one of the exiting chalets. This would be controlled via a Grampian condition which would prevent any works commencing until the demolition works have taken place.
- 8.157 Furthermore, a condition would require post completion testing of the route which would ensure the Fire Brigade are satisfied that they can access the site in a safe and timely manner. The timing for this condition would also be prior to the commencement of any works on site.
- 8.158 It is noted that the final comments from the Fire Officer stated that:  
*"While the current proposal is acceptable subject to this building being partially demolished it should be noted that the Fire Authority will consider enforcement action should following construction access not meet our requirements."*
- 8.159 To conclude, officers consider that sufficient information has been provided to allow the assessment of this application. Through the use of planning conditions and the ability of the Fire Authority to use their own legislation there is sufficient control to ensure that prior to the commencement of any works that an access route that meets the requirements of the Fire Authority is provided.

#### Public Transport Improvements:

- 8.160 It has been identified that the improvement of the access from Old Ford Road has been required. It has been agreed with the Borough Highway Officer that this would be secured via a S278 agreement which would be secured via condition. As part of the detailed landscaping scheme for the development full details and specification of the treatment of the access route from Old Ford Road and how this would ensure pedestrian safety would be secured via condition.

#### Other:

- 8.161 Locally residents have raised concern about the impact of the proposed development on capacity on the surrounding highway network, buses and tubes. The application has been supported by a Transport Statement which has been assessed by the Borough Highway Officer. This assessment demonstrates that the proposed development subject to the

development being secured as permit free and conditions securing s278 works that the proposed development would not have an adverse impact on the surrounding highway network. Additionally, it is not considered that the proposed 34 new units would result in an unduly detrimental impact upon local public transport infrastructure.

- 8.162 To conclude, the proposed development is considered acceptable with regard to highway's impacts and accords with policy.

### **Energy & Sustainability**

- 8.163 At a National level, the NPPF encourage developments to incorporate renewable energy and to promote energy efficiency.

- 8.164 The London Plan sets out the Mayor of London's energy hierarchy which is to:

- Use Less Energy (Be Lean);
- Supply Energy Efficiently (Be Clean); and
- Use Renewable Energy (Be Green)

- 8.165 The London Plan 2011 also includes the target to achieve a minimum 25% reduction in CO2 emissions above the Building Regulations 2010 through the cumulative steps of the Energy Hierarchy (Policy 5.2).

- 8.166 The applicant has provided a robust justification for the omission of a CHP and a communal gas system is also not considered feasible due to the scale of the development and site constraints (including the Hertford Union Canal).

- 8.167 Whilst the proposed energy strategy falls short of the requirements of emerging Policy DM29 of the MD DPD (which seeks a 35% reduction in CO2 emissions) the anticipated CO2 savings are in accordance with policy 5.2 of the LP and the applicant has demonstrated the CO2 savings have been maximised through energy efficiency measures and the integration of renewable energy technologies such as photovoltaics.

- 8.168 Therefore, the CO2 savings proposed for this development are considered acceptable in this specific instance. The applicant has proposed to achieve a Code for Sustainable Homes Level 4 rating for all units which is also supported by Sustainable Development Team. The energy strategy (including the additional information) and Code for Sustainable Homes level 4 would be secured through appropriate conditions.

### **Biodiversity and the Green Grid**

- 8.169 In terms of policy designations within the CS, UDP and MD DP; the canals from part of a green and blue grid and the canal is designated as a Site of Importance for Nature Conservation (SINC). Wennington Green is also within the SINC designation. The site also forms part of the Blue Ribbon Network.

- 8.170 The application has been supported by an Extended Phase 1 Habitat Survey Bat Habitat Suitability Assessment, prepared by Ecosulis and an Arboriculture Report prepared by DPA.

- 8.171 Policy 7.19 of the LP, strategic policy SP04 of the CS and DM11 of the MD DPD seek to wherever possible ensure that development, makes a positive contribution to the protection, enhancement, creation and management of biodiversity. Where sites have biodiversity value this should be protected and development which would cause damage to SINC's or harm to protected species will not be supported unless the social or economic

benefits of the development clearly outweigh the loss of biodiversity.

- 8.172 Strategic policy SP04 also sets out the Council's vision to create a high quality well connected and sustainable nature environment of green and blue spaces that are rich in biodiversity and promote active and healthy lifestyles.
- 8.173 Policy 7.24 of the LP sets out the strategic vision of the Blue Ribbon Network which should contribute to the overall quality and sustainability of London by prioritising the use of waterspace and land alongside it safely for water related purposes. Policy 7.27 seeks to support infrastructure and recreation use by amongst other aims protecting existing access points and enhancing where possible, increasing habitat value and protecting the open character of the Blue Ribbon Network.
- 8.174 Policy DM12 of the MD DPD provides guidance for development adjacent to the Blue Ribbon Network. Firstly development should not have an adverse impact. Secondly, with regard to design and layout development should provide appropriate setbacks from the water space edges. Finally, development should identify how it will improve the quality of the water space and provide increased opportunities for access, public use and integration with the water space.
- 8.175 The Borough Biodiversity Officer has advised that although there is little of biodiversity interest on the application site itself, this is a key location for enhancing biodiversity. It lies at the junction of the two canals, both of which are designated as a SINCR and a site of Metropolitan importance for nature conservation. The Hertford Union Canal is also a key green corridor, linking the Grand Union Canal system, and Victoria and Mile End Parks, with the Lee Valley.
- 8.176 Due to the fact that canals are important feeding areas and commuting routes for bats and some species avoid light careful consideration will need to be given to the lighting of the development. Full details of external lighting for the development would be controlled via condition and seek to ensure there would be no light spillage onto the canal. If this is not possible further bat surveys would be required to establish if the type of bats roosting and using the flight path are affected by lighting ahead of agreeing a scheme of lighting for the site.
- 8.177 The Extended Phase 1 Survey report identifies a small possibility that the existing buildings could be used occasionally for roosting by small numbers of bats. It is also possible that black redstarts could use them for nesting. To ensure no breach of protected species legislation, the Borough Biodiversity Officer has advised that the buildings should be demolished during the winter (November to March inclusive). If this is not possible, soft demolition techniques with an ecologist present, as recommended in the Extended Phase 1 report, should be used. Additionally, black redstart surveys should be undertaken immediately before demolition if this is to take place between May and July inclusive. If black redstarts are found to be nesting on site, demolition of the building they are nesting in would have to be delayed until the young have fledged. This would be secured by condition.
- 8.178 The Biodiversity Officer has noted that opportunities to incorporate biodiversity into the development are limited, particularly given the design development of the scheme has been informed by the Conservation Area location and uses pitched roofs which limits the potential for green or brown roofs. Further enhancements include the provision of bird and bat boxes and enhancement to the canal wall which would be secured via condition.
- 8.179 Consequently, the landscape strip along the south side of the Hertford Union Canal is crucial. Following comments by the Biodiversity Officer, the planting scheme has been

amended to take account of his comments. The Environment Agency, have also sought the retention of this area of landscaping which would act as a buffer zone. This would be controlled via condition.

- 8.180 The removal of existing trees within the site have been considered by the Borough Tree Officer who has raised no objections aside from ensuring replacement trees would include Alders which would be controlled via condition.
- 8.181 Residents concerns regarding biodiversity and protection of existing flora and fauna have been addressed through careful consideration of the proposals by the relevant technical officers and through the use of appropriate conditions.
- 8.182 To conclude, with regard to biodiversity subject to suitable conditions the biodiversity value of the site has where possible been enhanced and no protected species would be harmed in accordance with policy.
- 8.183 As discussed within the design section of this report the proposed layout and design of the development has been carefully developed. The proposal which includes three buildings allows for the creation of a public piazza. This will serve to enhance the exiting tow paths and provide further breathing space for activity at this important junction of the canals. High quality materials would be required for the public piazza which should preserve the character of the Conservation Area and this would be controlled via condition.
- 8.184 To conclude, the development has been carefully developed to respect its location adjacent to the Blue Ribbon Network. The provision of a new public piazza would be a benefit for the network and would enhance accessibility of the canal tow paths which accords with policy.

### **Contamination**

- 8.185 In accordance with the requirements of the NPPF, saved UDP policy DEV51 and policy DM30 of the MD DPD.
- 8.186 In accordance with the Environmental Health Contaminated Land Officer's comments a condition will be attached which would ensure that the necessary remedial action will be carried out. This would include the need for importing soil for areas of soft landscaping. This would include post completion testing.

### **Health Considerations**

- 8.187 Policy 3.2 of the London Plan seeks to improve health and address health inequalities having regard to the health impacts of development proposals as a mechanism for ensuring that new developments promote public health within the borough.
- 8.188 Policy SP03 of the Core Strategy seeks to deliver healthy and liveable neighbourhoods that promote active and healthy lifestyles, and enhance people's wider health and well-being.
- 8.189 Part 1 of Policy SP03 in particular seeks to support opportunities for healthy and active lifestyles through:
- Working with NHS Tower Hamlets to improve healthy and active lifestyles.
  - Providing high-quality walking and cycling routes.
  - Providing excellent access to leisure and recreation facilities.
  - Seeking to reduce the over-concentration of any use type where this detracts from the ability to adopt healthy lifestyles.

- Promoting and supporting local food-growing and urban agriculture.
- 8.190 The applicant has agreed to financial contributions towards leisure, community facilities and health care provision within the Borough.
- 8.191 The application will also propose a new public piazza within the site which are to be delivered. This will also contribute to facilitating healthy and active lifestyles for the future occupiers of the development and existing residents nearby.
- 8.192 It is therefore considered that the financial contribution towards healthcare and community facilities and leisure will meet the objectives of London Plan Policy 3.2 and Policy SP03 of the Council's Core Strategy which seek the provision of health facilities and opportunities for healthy and active lifestyles.

### **Section 106 Agreement**

- 8.193 The NPPF requires that planning obligations must be:
- (a) Necessary to make the development acceptable in planning terms;
  - (b) Directly related to the development; and
  - (c) Are fairly and reasonably related in scale and kind to the development.
- 8.194 Regulation 122 of CIL Regulations 2010 brings the above policy tests into law, requiring that planning obligations can only constitute a reason for granting planning permission where they meet such tests.
- 8.195 Securing appropriate planning contributions is further supported by saved policy DEV4 of the UDP and policy SP13 in the CS which seek to negotiate planning obligations through their deliverance in kind or through financial contributions to mitigate the impacts of a development.
- 8.196 The Council's Supplementary Planning Document on Planning Obligations was adopted in January 2012. This SPD provides the Council's guidance on the policy concerning planning obligations set out in policy SP13 of the adopted Core Strategy. The document also set out the Borough's key priorities being:
- Affordable Housing
  - Employment, Skills, Training and Enterprise
  - Community Facilities
  - Education

The Borough's other priorities include:

- Public Realm
  - Health
  - Sustainable Transport
  - Environmental Sustainability
- 8.197 This application is supported by a viability toolkit which detailed the viability of the development proposal through interrogation of the affordable housing provision and the planning obligations required to mitigate the impacts of this development proposal. The viability appraisal has established that it is not viable for the proposal to deliver more than 29% affordable housing alongside a contribution of £164,163 of planning obligations.
- 8.198 The toolkit provides an assessment of the viability of the development by comparing the Residual Value against the Existing Use Value (or a policy compliant Alternative Use

value), in broad terms, if the Residual Value equals or exceeds the Existing Use Value, a scheme can be considered as viable, as the requirements of paragraph 173 of the NPPF for competitive returns to the developer and the landowner have been satisfied. In summary, the Toolkit compares the potential revenue from a site with the potential costs of development. In estimating the potential revenue, the income from selling dwellings in the market and the income from producing specific forms of affordable housing are considered and in testing the developments costs matters such as build costs, financing costs, developers profit, sales and marketing costs are considered.

- 8.199 Based on the Council's s106 SPD, the viability of the proposal and the need to mitigate against the impacts of the development, LBTH Officers sought to deliver 29% on-site affordable housing and deliver an offer of £164,163 of financial contributions.
- 8.200 The s106 SPD requirement would be for £313,226 in financial contributions. The proposed offer of £164,163 would be 54% of the full contribution. The monies have been allocated according to the priorities within the s106 SPD.
- 8.201 It is noted that no public realm contribution has been sought. This is because the development provides a public piazza and is advantageously located adjacent to two large parks (Victoria Park and Mile End Park). The public realm contributions have instead been allocated to Education which is a priority for the borough. This was agreed at the Planning Contributions Overview Panel (PCOP) who have supported the recommendations of officers with regard to affordable housing and financial contributions.
- 8.202 The obligations can be summarised as follows:

**Financial Obligations**

- Education: £105,065
- Enterprise & Employment: £3,837
- Community Facilities: £23,101
- Health: £28,368
- Sustainable Transport: £574
- Monitoring & Implementation 2% of total (£3218)

**Non-Financial Obligations**

- 29% affordable housing
- Access to employment initiatives
- Permit free agreement
- Code of Construction Practice
- Public access

- 8.203 The applicant has demonstrated through the submission of a viability assessment that there is no additional provision to deliver further affordable housing or financial contributions without reducing the level of S106 that could be secured. The Council has independently reviewed the submitted viability assessment and concludes that the maximum reasonable amount of affordable housing which can be delivered on this site is 29% by habitable room and the maximum reasonable amount of financial contributions which can be delivered is £164,163. It is considered that the level of contributions would mitigate against the impacts of the development by providing contributions to all key priorities and other areas aside from public realm which is justified by merit of the location of the site between two major parks.

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

- 8.204 Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the local

planning authority (and on appeal by the Secretary of State) to grant planning permission on application to it. From 15th January 2012, Parliament has enacted an amended section 70(2) as follows:

8.205 In dealing with such an application the authority shall have regard to:

- a) The provisions of the development plan, so far as material to the application;
- b) Any local finance considerations, so far as material to the application; and
- c) Any other material consideration.

8.206 Section 70(4) defines "local finance consideration" as:

- a) A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
- b) Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

8.207 In this context "grants" might include the new homes bonus and payment of the community infrastructure levy.

8.208 These issues now need to be treated as material planning considerations when determining planning applications or planning appeals.

8.209 Regarding Community Infrastructure Levy considerations, following the publication of the London Mayor's Community Infrastructure Levy, Members are reminded that the London Mayoral CIL is now operational, as of 1 April 2012. The Mayoral CIL applicable to a scheme of this size is £88,620 which is based on the gross internal area of the proposed development. The scheme is proposed to provide 29% affordable housing and will therefore qualify for social housing relief on a proportion of this sum.

8.210 The New Homes Bonus was introduced by the Coalition Government during 2010 as an incentive to local authorities to encourage housing development. The initiative provides unring-fenced finance to support local infrastructure development. The New Homes Bonus is based on actual council tax data which is ratified by the CLG, with additional information from empty homes and additional social housing included as part of the final calculation. It is calculated as a proportion of the Council tax that each unit would generate over a rolling six year period.

8.211 Using the DCLG's New Homes Bonus Calculator, and assuming that the scheme is implemented/occupied without any variations or amendments, this development is likely to generate approximately £60,012 within the first year and a total of £360,70 over a rolling six year period. There is no policy or legislative requirement to discount the new homes bonus against the s.106 contributions, and therefore this initiative does not affect the financial viability of the scheme.

### **Human Rights Considerations**

8.212 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:-

8.213 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"*.

- 8.214 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.
- 8.215 Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.
- 8.216 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.
- 8.217 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 8.218 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.
- 8.219 In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified. Officers have also taken into account the mitigation measures governed by planning conditions and the associated section 106 agreement to be entered into.

### **Equalities Act Considerations**

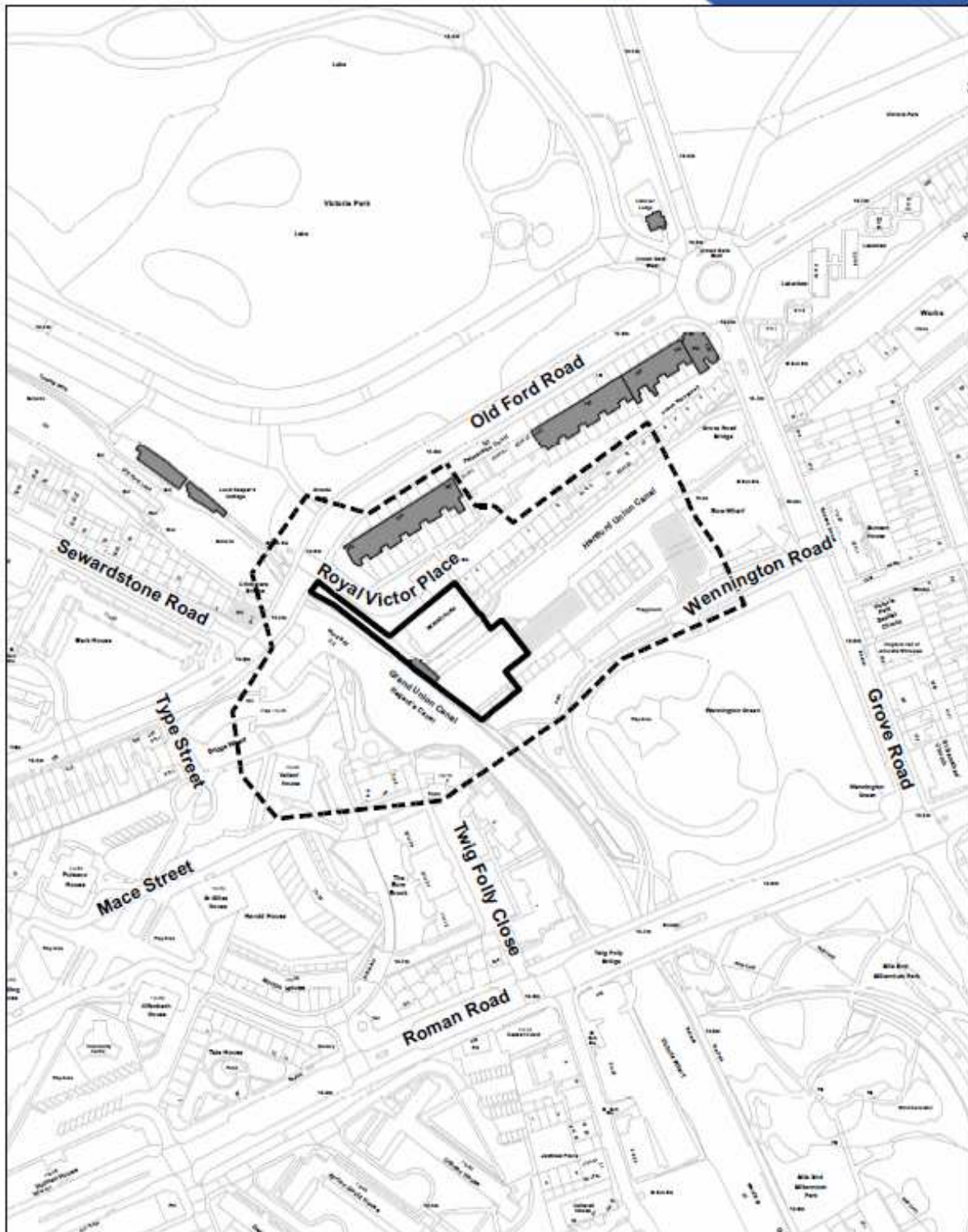
- 8.220 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs and sex and sexual orientation. It places the Council under a legal duty to have due 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:

1. eliminate discrimination, harassment, victimisation and any other conduct that is

- prohibited by or under the Act;
  - 2. advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
  - 3. foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 8.221 The contributions towards various community assets/improvements and infrastructure improvements addresses, in the short-medium term, the potential perceived and real impacts of the construction workforce on the local communities, and in the longer term support community wellbeing and social cohesion.
- 8.222 Furthermore, the requirement to use local labour and services during construction enables local people to take advantage of employment opportunities.
- 8.223 The community related contributions (which will be accessible by all), such as the new public piazza, help mitigate the impact of real or perceived inequalities, and will be used to promote social cohesion by ensuring that sports and leisure facilities provide opportunities for the wider community.
- 8.224 The contributions to affordable housing support community wellbeing and social cohesion.

### **Conclusions**

- 8.225 All other relevant policies and considerations have been taken into account. PLANNING PERMISSION, LISTED BUILDING CONSENT and CONSERVATION AREA CONSENT should be granted 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.



Planning Application  
Site Boundary



Locally Listed Buildings



Consultation Area



Statutory Listed Buildings

0 30 m



1:2,500

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

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