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| <b>Committee:</b><br>Development | <b>Date:</b> 9 <sup>th</sup> April 2015 | <b>Classification:</b><br>Unrestricted | <b>Agenda Item Number:</b> |
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| <b>Report of:</b><br>Director of Development and<br>Renewal | <b>Title:</b> Application for Planning Permission      |
| <b>Case Officer:</b><br>Adam Hussain                        | <b>Ref No:</b> PA/14/03424 (Full Planning Application) |
|   | <b>Ward:</b> Weavers                                   |

1. **APPLICATION DETAILS**

**Location:** 281-285 Bethnal Green Road, E2 6AH

**Existing Use:** Clothing Distributor (Use Class B8)

**Proposal:** Demolition of existing buildings and redevelopment of the site to provide a residential led mixed use development, comprising the retention of the existing façade to the Bethnal Green Road frontage, erection of two five-storey buildings (with basement) to provide 21 dwellings and 130 sqm of commercial space falling within use classes A1, A2, B1, D1 and/or D2, plus cycle parking, refuse/recycling facilities and access together with communal and private amenity space.

**Drawings and documents:** List of Plans:

*Existing:*

1441(PL)020  
1441(PL)021  
1441(PL)030  
1441(PL)002  
1441(PL)003  
1441(PL)004

*Proposed*

1441(PL)100 Rev A  
1441(PL)101 Rev B  
1441(PL)102 Rev A  
1441(PL)103 Rev A  
1441(PL)104  
1441(PL)105 Rev A  
1441(PL)106 Rev A  
1441(PL)111 Rev A  
1441(PL)112 Rev B  
1441(PL)113 Rev A  
114(PL)114 Rev A  
114(PL)115 Rev A

114(PL)116  
114(PL)117 Rev A  
114(PL)118  
114(PL)119  
114(PL)120  
114(PL)121 Rev A  
114(PL)122  
114(PL)123 Rev A  
114(PL)200 Rev A  
114(PL)201 Rev A  
114(PL)202 Rev A  
114(PL)203 Rev A  
114(PL)204 Rev A  
114(PL)205 Rev A  
114(PL)210 Rev A  
114(PL)211 Rev A  
114(PL)212 Rev A  
114(PL)213 Rev A  
114(PL)300 Rev A

Documents:

- Design and Access Statement
- Planning Statement
- Daylight and Sunlight Study
- Transport Statement
- Noise Report
- Energy & Sustainability Reports
- Marketing Report
- Land Contamination Report
- Question of Listing Report
- Structural Method Statement Report

**Applicant:** Bethnal Green Innovations Ltd.  
**Ownership:** Mr & Mrs Frankle, 281-285 Bethnal Green Road, E2

**Historic Building:** None.

**Conservation Area:** None.

## 2. EXECUTIVE SUMMARY

- 2.1 The report considers an application for full planning permission for part-demolition of the existing building, and construction of two five-storey buildings fronting Bethnal Green Road and Florida Street respectively. The proposal includes retention of the façade of the existing building, incorporated into the design of the Bethnal Green Road building. The proposal would provide a total of 21 dwellings, including 5 affordable units, as well as 130sq.m of flexible (use class A1/A2/B1/D1/D2) floorspace.

- 2.2 Officers have considered the particular circumstances of this application against the provisions of the Local Plan and other material considerations as set out in this report, and recommend approval of planning permission.
- 2.3 The development would result in the provision of 30% affordable housing.
- 2.4 The residential quality of the scheme would be good. The proposal would include two family sized affordable rented units with generous sized amenity spaces. All of the proposed units would meet or exceed floorspace and layout standards, and overall will exceed minimum amenity standards including a communal courtyard in the centre of the development. All of the dwellings would meet Code of Sustainable Homes and Lifetime Homes standards and 10% would be provided as wheelchair accessible.
- 2.5 The report explains that the existing building is a former picturehouse constructed in 1913, and remodelled in an Art Deco style in the late 1930s. Since the 1970s it has been in use as a warehouse by Frankle Trimmings, a fashion distributor. An application for Statutorily Listing this building was turned down by English Heritage in August 2014. The report explains that in retaining the front façade, and incorporating it into the proposed design, the proposal retains the elements of the existing building of most significance and reinstates lost features.
- 2.6 The report explains that the proposal would be acceptable in terms of height, scale, design and appearance and would deliver good quality homes in a sustainable location.
- 2.7 The amenity impact of the development would be acceptable, in terms of overshadowing/ loss of light, overlooking/ loss of privacy or loss of outlook/ sense of enclosure. Subject to appropriate conditions, noise and vibration during construction will be mitigated to avoid disturbance to neighbouring residential properties.
- 2.4 The proposal would be acceptable with regard to highway and transportation matters, including access and servicing.
- 2.9 The scheme would meet the full reasonable planning obligations, in addition to payment of Borough CIL.

### 3. RECOMMENDATION

- 3.1 That the Development Committee resolve to **GRANT** planning permission subject to:
  - A. Any **direction** by **The London Mayor**
  - B. The prior completion of a **legal agreement** to secure the following planning obligations:
- 3.2 Financial Obligations:
  - (a) A contribution of £9,900 towards carbon reduction.
  - (b) A contribution of £5,839 towards providing employment & training skills for local residents.

**Total: £15,739**

### 3.3 Non-Financial Obligations:

(a) 30% affordable housing, by habitable room (5 units) within the B-Block on Florida Street:

- 65% affordable rent, at Borough rent levels for E2. (3 units).
- 35% intermediate. (2 units).

(b) Employment and Training Strategy including access to employment (20% Local Procurement; 20% Local Labour in Construction).

(c) On-street parking permit free development.

(d) Any other planning obligation(s) considered necessary by the Corporate Director Development Renewal.

3.4 That the Corporate Director Development & Renewal is delegated power to negotiate the legal agreement indicated above acting within normal delegated authority.

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

### 3.6 **CONDITIONS & INFORMATIVES on FULL PLANNING PERMISSION**

#### 3.3 'Compliance' Conditions

1. Time Limit 3 years
2. Compliance with plans and documents
3. Hours of construction
4. Hours of operation for outdoor area
5. Hours of operation for covered seating area/ retractable roof
6. Obscure glazing on windows
7. No impact piling without consultation with Thames Water
8. Cycle parking to be provided prior to occupation
9. Refuse store to be provided prior to occupation
10. Lifetime Homes Standards
11. Secure By Design
12. S278 Agreement

#### 3.7 'Prior to commencement' Conditions

13. Construction Management Plan
14. Scheme of Highways Works (S.278)
15. Schedule of conditions survey for London Underground
16. Contaminated Land
17. Submission of details and samples of all facing materials including windows, balustrades and screening
18. Landscaping and boundary treatment details including detail of biodiverse roofs
19. Details of Wheelchair Units
20. Car-free agreement
21. Details of sound insulation

### 3.8 Prior to Occupation

22. Schedule of conditions survey for London underground post completion
23. Opening hours of commercial units.
24. Post completion Noise testing

### 3.9 Within 3 months of Occupation

25. Code for Sustainable Homes Level 4 Post-completion certificate

### 3.10 Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal

### 3.11 Informative

1. Compliance with Environmental Health Legislation
2. Compliance with Building Regulations
3. S278

## 4. **SITE AND SURROUNDINGS**

- 4.1 The application site (0.0775ha) stretches the depth of this urban block, with a frontage on Bethnal Green Road, and the southern side of Florida Street. The site is occupied by a single-storey building covering the full footprint of the site, in use as a warehouse and distribution centre (use class B8) for the company Frankle Trimmings.
- 4.2 The building was constructed in 1913, designed by architect Philip Tree, as an entertainment venue with a stage showing films and musicals. It went through some alterations in the 1920s, followed by a more comprehensive remodelling in 1938/39 by George Coles, in the Art Deco style. At this time it became known as the Rex Cinema. In the late 1940s the site was in use as a bingo hall, and since the 1970s has been owned and occupied by Frankle Trimmings. The front elevation has a central in-curving section with horizontal ribs and a tower comprised of multiple sections. Formerly the tower was taller and had a neon sign bearing the name of the cinema. The building also previously included a projecting canopy.
- 4.3 Fronting Bethnal Green Road the site adjoins nos. 287-289 Bethnal Green Road, to the east. This is a three-storey terrace plus mansard roof, with commercial units at ground floor and flats above. A first floor roof terrace is located to the rear. To the west, the site adjoins 277-279 Bethnal Green Road. These are three-storey properties with commercial at ground floor level and office accommodation on upper floors. To the rear these properties have single-storey extensions occupying the rear yards.
- 4.4 Florida Street is quieter in character, a predominantly residential area. Adjoining the site to the east is a part two/part five storey development of residential and live/work units, called 'Florida Studios'. To the west, approximately midway through the site is a three storey residential development, 'Carly Mews', facing southwards. Behind this development, adjacent to the application site, are the rear gardens of 36-40 Florida Street. This is a four-storey residential block on the corner of Florida and Roberta Street. Directly opposite the application site is the flank wall of an eleven-storey residential block, Johnson House, which is located on the eastern side of Roberta

Street. Approximately 60m, to the north-east, is a public park, and Weaver's Fields park is approximately 120m to the south-east. To the east, on the corner of Florida Street and Squirries Street is Bethnal Green Health Centre.

- 4.5 The site is not within a conservation area and the existing building is not locally or statutorily listed.
- 4.6 Bethnal Green town centre is approximately 60m to the east. The site's public transport accessibility level is 6a this reflects its proximity to the Shoreditch High Street Overground Station, Bethnal Green National Rail, and Bethnal Green Underground Station. Business and visitor parking bays are in front of the site on Bethnal Green Road and resident parking bays are on Florida Street.
- 4.7 Site is within the GLA's City Fringe boundary – outside the core growth area but within the wider hinterland.

## **5 RELEVANT PLANNING HISTORY**

- 5.1 **PA/76/00334:** Change of use from bingo hall to wholesale warehouse and showroom, including creation of rear vehicular access. Permitted 7/10/1976.
- 5.2 **BG/91/00154:** Conversion of rear store to form a garage for two cars, including new shutter doors and cross-over to Florida Street. Permitted 22/08/1991.

## **6 DETAILS OF THE PROPOSED DEVELOPMENT**

- 6.1 This application proposes redevelopment of the site, comprises part-demolition of existing buildings with retention of the front façade, construction of 2 x five-storey buildings, fronting Bethnal Green Road and Florida Street respectively, providing 21 dwellings and 130sq.m of commercial floorspace (flexible use class A1/A2/B1/D1/D2). The site would provide a central courtyard providing communal amenity space to the proposed residential units.
- 6.2 The Bethnal Green Road building is referred to from hereon as 'Block A'. The ground and first floor of this block incorporates the retained façade of the existing building. As existing, the ground floor and part of the first floor follow the front building line of the site. The elevations are altered with the introduction of new fenestration, providing shopfronts and residential entrances at ground floor level, and residential windows at first floor. The retained first floor has a central curved element which would be fenestrated with folding doors. On upper floors, as with the existing first floor, the development is set back by up to 3m, with the fourth floor behind a proposed parapet, set back a further 2.5m.
- 6.3 The footprint of block A is approximately 250sq.m. At ground floor level the development would provide 2 x commercial units measuring 84.5sq.m and 46sq.m each. These would have individual shopfronts separated by a central residential entrance leading to a central corridor providing stairwell and lift access to upper floors, and leading to the communal courtyard to the rear of this block. On upper floors residential units would be dual aspect. There would be two units each on the first to third floors, with external balconies of approximately 8sq.m to 9sq.m. At fourth floor there would be one residential unit with a terrace of approximately 18sq.m.

- 6.4 'Block B' fronting Florida Street would be a four-storey building, with an in-set fifth floor. It would measure a maximum of 14.5m high, 17m wide (full-width of the plot), and 14.5m deep. This would be a wholly residential block, with 14 units comprising affordable rent, intermediate and market tenures. 10 of the 14 residential units would be dual-aspect, with no north facing single-aspect. Private amenity would be provided in the form of balconies ranging from 6sq.m to 13.5sq.m. The block also includes two family duplex units over ground and lower ground, with private courtyard amenity of 25sq.m and 50sq.m.
- 6.5 The detailed design of the elevations of the development take cues from the art deco era of the existing building. The Bethnal Green Road frontage proposes a white through colour render, and a horizontal emphasis to the fenestration on each floor. The building retains the central curved section at first floor with its outer elements extending to the front of the building. The existing fin-like tower, extended in height, serves as the central feature to the elevation. The application proposes referencing the name of the former cinema, 'The Rex', with signage to the central fin and on a new projecting canopy at ground floor level. A ceramic glazed brickwork is proposed to the base of the proposed shopfront. Decorative metalwork, proposed as an art deco motif, would feature as the residential entrance gate and as balustrading at first floor.
- 6.6 On Florida Street the primary material is a white or cream brick, over first to third floors. The recessed ground floor level with front boundary wall is finished in a ceramic brick. On upper floors the glazing is set within horizontal projecting frames with glazing units set next to glazed mosaic tiles. Fronting the stairwell over four floors is a glazed frontage overlaid with a galvanised steel screen in an art deco design. The inset fifth floor is finished with a metal panel cladding and detailed with a green enamel soffit.
- 6.7 The development would be constructed to Code for Sustainable Homes Level 4 and Lifetime Homes Standards. 10% (2 units) of the proposed dwellings, being two affordable rent units, would be wheelchair adaptable.
- 6.8 Amendments during application
- Affordable Housing Increased from 19% to 30%.
  - Affordable Rent size mix changed from 1 x 1-bed, 1 x 2-bed & 1 x 3-bed, to 1 x 2-bed & 2 x 3-bed.
  - Depth of lower ground floor private gardens increased from 2.4m and 7.2m to 4m and 7.5m.
  - Design and location of cycle store amended.
  - Proposed A4 (drinking establishments) use omitted from commercial units.
  - Proposed rear outdoor space for commercial unit omitted.
  - Amendments to balconies and obscure glazing of flank windows, Block B.

## **7 POLICY FRAMEWORK**

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

- 7.2 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:
- 7.3 Government Planning Policy  
 NPPF - National Planning Policy Framework (2012)  
 NPPG- National Planning Policy Guidance (2014)
- 7.4 Spatial Development Strategy for Greater London - London Plan 2011  
Further Alterations to the London Plan (FALP) 2015  
 2.10 Central Activities Zone (Strategic Priorities)  
 2.11 Central Activities Zone (Strategic Functions)  
 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 Recreational Facilities  
 3.8 Housing Choices  
 3.9 Mixed and Balanced Communities  
 3.10 Definition of Affordable Housing  
 3.11 Affordable Housing Targets  
 3.12 Negotiating Affordable Housing  
 3.13 Affordable Housing Thresholds  
 4.5 London’s Visitor Infrastructure  
 5.1 Climate Change Mitigation  
 5.2 Minimising Carbon Dioxide Emissions  
 5.3 Sustainable Design and Construction  
 5.5 Decentralised Energy Networks  
 5.6 Decentralised Energy in Development Proposals  
 5.7 Renewable Energy  
 5.8 Innovative Energy Technologies  
 5.9 Overheating and Cooling  
 5.13 Sustainable Drainage  
 5.15 Water Use and Supplies  
 5.17 Waste Capacity  
 5.21 Contaminated Land  
 6.2 Providing Public Transport Capacity and Safeguarding Land for Transport  
 6.3 Assessing Effects of Development on Transport Capacity  
 6.8 Coaches  
 6.9 Cycling  
 6.10 Walking  
 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  
 7.8 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



- 7.5 Tower Hamlets Adopted Core Strategy 2010  
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  
SP09 Creating Attractive and Safe Streets and Spaces  
SP10 Creating Distinct and Durable Places  
SP11 Working Towards a Zero-carbon Borough  
SP13 Delivering and Implementation

7.6 Managing Development Documents 2013

- DM1 Development within the Town Centre Hierarchy  
DM2 Local Shops  
DM3 Delivering Homes  
DM4 Housing Standards and Amenity Space  
DM11 Living Buildings and Biodiversity  
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 Public Realm  
DM24 Place-sensitive Design  
DM25 Amenity  
DM27 Heritage and the Historic Environment  
DM29 Achieving a Zero-carbon Borough and Addressing Climate Change  
DM30 Contaminated Land

7.7 Supplementary Planning Documents

- LBTH Planning Obligations SPD  
GLA City Fringe Opportunity Area Planning Framework

**8.0 CONSULTATION RESPONSE**

- 8.1 The following were consulted with regard to the application. Responses are summarised below. The views of officers within the Directorate of Development and Renewal are generally expressed within Section 10 of this report which addresses the various material planning considerations but where appropriate, comment is also made in response to specific issues raised as part of the consultation process.

**External Consultees**

London Underground

- 8.2 The submitted plan shows the alignment of the Central Line underground in relation to the application site. Though we have no objection in principle to the above planning application there are a number of constraints on the redevelopment of a site situated close to underground tunnels and infrastructure. Therefore it will need to be demonstrated to the satisfaction of LUL engineers that: i) the development will not have a detrimental effect on LUL tunnels and structures either in the short or long term, ii) the design must be such that the loading imposed on our tunnels or

structures is not increased or removed, iii) we offer no right of support to the development or land. Therefore, we request the grant of planning permission be subject to a pre-commencement condition as proposed.

*(Officer comment: Proposed condition will be added to permission)*

#### Thames Water

- 8.3 Recommend a number of conditions and informatives relating to drainage and foundation piling methods.

*(Officer comment: conditions and informatives to be added to permission)*

#### Secured by Design Officer

- 8.4 Satisfied with proposed detail, including second security door.

*(Officer comment: Secure by design features to be secured by condition).*

#### London Fire and Emergency Planning Authority

- 8.5 No comments received.

#### English Heritage

- 8.6 No comment. Do not require consultation.

#### Transport for London

- 8.7 Not a TfL Highway, do not intend to comment.

### **Internal Consultees**

#### Housing Strategy

- 8.8 The applicant's initial offer was a 19% quantum of affordable housing, this fell well below the Council's minimum requirement of 35%. The applicant had cited scheme viability constraints. The applicant's viability toolkit was subsequently reviewed independently. The review concluded that the scheme could actually deliver a 30% quantum of affordable housing. The applicant has accepted the outcome of the toolkit review and is now proposing to deliver the 30% quantum of affordable housing, in line with the independent review.

- 8.9 The tenure split within the affordable is 65:35 in favour of rented. This falls between 70:30 Council target and 60:40 London Plan target and is therefore acceptable in this instance.

- 8.10 The applicant will need to confirm that the rented units will come forward in line with Borough Framework Rent levels which for the E2 postcode, inclusive of service charges must not exceed:

1 bed £209  
2 bed £240  
3 bed £276  
4 bed £303

*(Officer comment: These rent levels are confirmed and will be secured within the legal agreement).*

- 8.11 The tenure mix within the rented units is 33% two beds against a policy target of 25% and 67% three beds against a policy target of 30%. There is no provision of 1 beds. However we note that the sum total of rented is just 3 units and accept the offer of the two 3 bed units.
- 8.12 The mix within the intermediate is for 50% two beds against a target of 50% and 50% three beds and larger against a target of 25%. There is no provision of intermediate one beds, however we appreciate that there are only 2 intermediate units in total.
- 8.13 The 3 bed plus units are designed with a second w/c, this is welcomed. The rented 3 bed units are designed with separate kitchen / living room arrangements, this is welcomed.
- 8.14 All of the units exceed the Council's minimum space standards. A Preferred Registered Provider (RP) of affordable housing has also reviewed the scheme design and has confirmed interest in taking on the affordable units.
- 8.15 The applicant should ensure that the balconies comply with the Council's standards (which match those set by the London Plan), that is balconies should be a minimum 5sqm for a 1 to 2 person dwelling and then an extra 1sqm for each additional occupant i.e. for a 3 bed 5 person unit the minimum balcony size will need to be 8sqm. Furthermore, balconies and other external spaces should have a minimum width of 1500mm.
- 8.16 The applicant has identified two rented units as wheelchair accessible, this represents 10% of the overall scheme which matches the Council's policy target. Housing requests a condition that the applicant submits scale 1:50 plans of the rented wheelchair unit types. A disabled parking space for the wheelchairs units should also be provided.  
*(Officer comment: These matters are discussed under the 'Housing' heading within the 'Material Considerations' section of the report. A condition on details of wheelchair units is included, and one on-street disabled parking bay is proposed on Florida Street, to be secured through the applicant's s278 agreement)*

#### Environmental Health - Contamination

- 8.17 The site has been identified as containing potential contaminants and as such a strategy for dealing with the contamination is requested by condition.  
*(Officer Comment: Suggested condition to be added to permission)*

#### Environmental Health - Noise and Vibration

- 8.18 The proposed development will experience high levels of noise from local road traffic along the Bethnal Green Road. The NPSE (Noise Policy Statement for England) would also consider that this site falls within a SOAEL, as the environment here will have significantly adverse effects on the health and the quality of life for any future occupants.
- 8.19 The design of the development is also an important factor at this location as many of the habitable rooms will overlook a major road. Whilst we would not object to the development, our recommendation would be that the design is reviewed carefully.

- 8.20 If the site is to be used, a high degree of sound insulation will be required to meet the council's standards. LBTH's requirement is the previously defined "good" standard of BS8233, especially at night-time. The building should also incorporate a high degree of sound insulation between any residential and commercial areas. We would recommend a sound insulation performance of at least 55 dB between any residential premises and commercial areas.
- 8.21 Other conflicts of use are likely to occur at this development between the residential areas and any commercial cooking activities, boiler rooms, extract systems, required air-conditioning and ventilation. Also the use of any other mechanical and electrical plant; servicing and delivery issues may also cause conflicting noise issues.
- 8.22 Any kitchen extract plant must meet the Defra guidance for noise and odour. Any required construction, demolition and delivery (lorry) noise impacts should be fully taken into consideration in a construction environmental management plan (CEMP). This should also take into consideration the council's own code of construction practice and working hours.  
*(Officer comment: These matters are discussed under the 'Standard of Residential Accommodation' heading within the 'Material Considerations' section of the report. A condition on the construction management plan is included).*

#### LBTH Transportation & Highways

- 8.23 Highways require issues related to cycle spaces and refuse area to be resolved before the planning permission is granted.
- 8.24 **CAR PARKING:**  
Highways require a section 106 'car and permit' free agreement for this development as it is located in excellent PTAL area (PTAL 6a).  
*(Officer comment: Included within the proposed Section 106 obligations)*
- 8.25 **CYCLE SPACES:**  
Highways object to the proposed cycle parking design. There are numbers of spaces are not accessible and spaces are too tight. Therefore, the applicant is required to revise the drawings especially the curved section.
- 8.26 Moreover, the applicant is required to provide separate cycle parking facility for staff and visitors. The applicant is required to follow our guidelines to provide appropriate number of cycle spaces.
- 8.27 In addition, Highways prefer all cycle facility to be on the ground floor or have step free access. Therefore, the applicant is required to provide further information why these spaces cannot be provided on the ground floor.  
*(Officer comment: The proposed cycle store has been amended. This remains at lower ground floor level, but has omitted curved layout and staircase, and includes a cycle ramp so cycles need not be lifted. To supplement the lower ground store the proposal also includes 4 cycle spaces at ground floor level. This is considered acceptable and is discussed under the 'Transport and Access' heading within the 'Material Considerations' section of the report).*
- 8.28 **REFUSE FACILITY:**  
There is no provision for on-site refuse storage has been identified in the proposed plan for residential and non-residential units. The applicant has stated that "Refuse stores are located on ground floor level to the rear of the ground floor commercial units". However, Highways is unable to locate dedicated refuse storage. Highways

will object to any proposal to store bins on public highways. Therefore, Highways would expect waste colleagues to comment on this further.

*(Officer comment: Applicants have provided additional information confirming ground floor waste storage, acceptable to waste strategy officers).*

8.29 DOOR:

The applicant is required provide details of the door opening outward towards Florida Street.

*(Officer comment: Applicants have provided information confirming no outward opening doors on Florida Street are proposed).*

8.30 CONDITION TO BE ATTACHED:

-Highways require that a condition is attached to any permission that no development should start until Highways has approved in writing the scheme of highway improvements necessary to serve this development. The applicant is required to consult Wajid Majid to discuss the highway's improvement work required for this development and agree a S278 agreement.

*(Officer comment: condition to be attached).*

8.31 The applicant is required to Contributions towards the street scene and built environment within the Weavers area in addition to the street scene adjacent to the proposed development secured via the Section 106 process.

*(Officer comment: This application is being considered under the Borough CIL regime, as such the proposed contributions would not be required. This is considered within the 'Section 106 and Borough CIL' heading within the 'Material Considerations' section of the report).*

8.32 The applicant is required to submit a Construction Management Plan (CMP) to the local planning authority and receive written approval for the CMP.

*(Officer comment :condition to be included).*

LBTH Waste Policy and Development

8.33 Following provision of further information there is no objection to the proposed waste provision.

Energy Efficiency Team

8.34 The submitted proposals have followed the energy hierarchy and seek to minimise CO2 emissions through the implementation of energy efficiency measures including high efficiency gas boilers and MHVR and renewable energy technologies (15.5kWp / 81.6m2 PV array). The CO2 emission reductions proposed are supported and would result in a circa 28.6% reduction against the Building Regulations 2013.

8.35 Based on the current proposals there is a shortfall to policy DM29 requirements by 5.5 tonnes of regulated CO2. The Energy strategy identifies the requirement to meet the shortfall through a carbon offset payment and this approach is supported for the development.

8.36 For the proposed scheme it is recommended that a figure of **£9,900** is sought for carbon offset projects as identified in the submitted Energy Statement.

8.36 In terms of sustainability, the submitted Code for Sustainable Homes pre-assessment demonstrates how the development is currently designed to achieve Code level 4

rating with a score of 72.81. This is supported and this should be secured via an appropriately worded Condition with the final certificates being submitted to the council within 3 months of occupation.

*(Officer Note: Conditions on Code for Sustainable Homes and PV panels included. Carbon off-set amount included in planning obligations).*

#### 8.37 The Cinema Theatre Association (CTA)

In the view of the CTA, English Heritage's inspection of the building was hampered by the difficulty of accessing surviving heritage features in the interior. CTA notes that application does try to retain key features of the façade, which is welcome. But we object to granting permission on the grounds that: 1. Insufficient consideration has been given to the possibility of a mixed-use scheme including a cinema, which would be appropriate in an improving area; integrity of the retained façade is undermined by the insertion of windows into its curved element; façade with its curved element and vertical fin should be kept separate from the block behind, not attached as proposed.

*(Officer Note: This is considered under the 'Land Use' and 'Heritage, Design and Appearance' headings within the 'Material Considerations' section of the report).*

#### 8.38 East End Preservation Society

Building was not considered eligible for national listing; however, this does not detract from the local and social importance of historic buildings, and East End Preservation Society would strongly recommend that the application building be included on any local list produced by Tower Hamlets. Application does not adequately explore the potential for re-use of the building including uses that would incorporate distinctive and historic features. Concerns around insertion of features into façade.

*(Officer Note: This is considered under the 'Land Use' and 'Heritage, Design and Appearance' headings within the 'Material Considerations' section of the report).*

### 9. LOCAL REPRESENTATION

#### Statutory Consultation

9.1 Two site notices were displayed on 2<sup>nd</sup> January 2015. The proposal was advertised in the press on 12<sup>th</sup> January 2015. A total of 237 neighbouring addresses were notified in writing. 8 letters of objection have been received as well as one petition with 14 signatories. Objections from the following associations were received: Cinema Theatre Association and East End Preservation Society. The comments from these associations have been summarised in the consultees response section above.

9.2 For completeness, all issues raised in the neighbour objection letters and petition are summarised below.

9.3 The objections raised the following matters:

1) Loss of privacy/overlooking

*(Officer Note: This is considered under the 'Neighbouring Amenity' heading within the 'Material Considerations' section of the report)*

2) Increased sense of enclosure of adjoining properties

*(Officer Note: This is considered under the 'Neighbouring Amenity' heading within the 'Material Considerations' section of the report)*

3) Loss of light to adjoining apartments and gardens

*(Officer Note: This is considered under the 'Neighbouring Amenity' heading within the 'Material Considerations' section of the report)*

- 4) Increased pressure on stretched local services  
*(Officer Note: The density of the development, transport impacts, and financial contributions to Infrastructure through the Borough's Community Infrastructure Levy are addressed in the 'Material Considerations' section of this report)*
- 5) Concerns related to proposed A4 drinking establishment use, increased noise, unsavoury behaviour, disruption from increased traffic.  
*(Officer Note: This is considered under the 'Neighbouring Amenity' heading within the 'Material Considerations' section of the report.)*
- 6) Overdensity  
*(Officer Note: This is considered under the 'Housing' heading within the 'Material Considerations' section of the report).*
- 7) Proposed height unacceptable  
*(Officer Note: This is considered under the "Heritage, Design and Appearance" heading within the 'Material Considerations' section of the report).*
- 8) Loss of existing building of historic significance  
*(Officer Note: This is considered under the 'Heritage, Design and Appearance' heading within the 'Material Considerations' section of the report).*
- 9) Proposed 'Art deco' design does not fit in with surrounding area  
*(Officer Note: This is considered under the 'Heritage, Design and Appearance' heading within the 'Material Considerations' section of the report.)*

## **10 MATERIAL PLANNING CONSIDERATIONS**

10.1 The main planning issues raised are as follows:

1. Land Use
2. Heritage, Design and Appearance
3. Housing
4. Residential Amenity
5. Transport and Access
6. Sustainability, Energy efficiency & Climate Change
7. Planning Obligations & CIL
8. Localism Act (amendment to S70 (2) of the TCPA 1990)
9. Human Rights Considerations
10. Equality Act Considerations
11. Conclusion

### **Land Use**

10.2 Paragraph 7 of the National Planning Policy Framework sets out the Government's land use planning and sustainable development objectives. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles: an economic role – contributing to the economy through ensuring sufficient supply of land and infrastructure; a social role – supporting local communities by providing a high quality built environment, adequate housing and local services; and an environmental role – protecting and enhancing the natural, built and historic

environment. These economic, social and environmental goals should be sought jointly and simultaneously.

- 10.3 The application site carries no site-specific policy designations but is located approximately 60m, from the Bethnal Green Road town centre, to the east. The site is occupied by a part single/part two-storey building used by an existing fashion warehouse and distribution business (use class B8).
- 10.4 The site is located within the boundary of the City Fringe/Tech City 'OAPF' which is a supplementary London Plan document that is currently in draft form. The document aims to encourage an increase in employment floorspace in order to support the tech city industry which is growing around Old Street/Shoreditch. The site itself is located within a 'hinterland area' where some employment floorspace may be appropriate but proposals are likely to be more residential in nature. It suggests that consideration should still be given to supporting leisure and retail uses'. This application is considered to meet the objectives of this document.

#### Loss of the existing employment use

- 10.5 Core Strategy policy S016 (Delivering successful employment hubs) 'supports the growth of existing and future businesses in accessible and appropriate locations'. It aims to deliver a range of employment uses, sites and types in the most appropriate location for that particular use. Office, workspace and commercial uses to be located in accessible locations, close to other similar uses, to public transport and a wider support network of shops and services, while also providing for industrial land in appropriate locations.
- 10.6 Managing Development Document DM15 (local job creation and investment) states that the upgrading and redevelopment of employment sites outside of spatial policy areas will be supported. Development should not result in the loss of active and viable employment uses, unless it can be shown, through a marketing exercise, that the site has been actively marketed (for approximately 12 months) or that the site is unsuitable for continued employment use due to its location, viability, accessibility, size and condition.
- 10.7 In this case, the existing business, Frankle Trimmings Ltd. have been the owner occupiers for approximately 35 years. A marketing report from Stirling Ackroyd Chartered Surveyors accompanies the planning application. This document explains that the existing business began looking for new occupiers to replace them due to their now largely internet based operation making much of the storage space surplus to requirement. The owners are also looking for premises nearer the major road networks.
- 10.8 The submitted report sets out that the owners themselves carried out an informal marketing exercise during 2012. Stirling Ackroyd were then instructed to fully market the property, in March 2013. This included particulars distributed to 150 commercial & industrial agents, marketing on websites, and erection of 'All Enquiries/To Let' board on site. This exercise was carried out for a year, and there were no offers from potential tenants. Criticisms of the existing building included the physical state of the building, lack of decent sized service yard, poor layout and lack of natural light, location far away from major motorways.
- 10.9 Officers are satisfied that evidence of marketing for 12 months has been reasonably demonstrated, and in the circumstances set out above, the loss of the existing



warehouse use is considered acceptable in principle, in accordance with policy DM15.

#### Proposed land uses

- 10.10 The predominant land use of the proposed development is residential. Policy SP02 of the Core Strategy (2010) states that the Council will seek 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. SP02.b. identifies Bethnal Green as an area where delivery of new housing will be targeted. In this context, the provision of new housing in this location is acceptable in principle, and in accordance with the Council's objectives of the delivery of new housing.
- 10.11 The secondary use on this site is two commercial units, (use classes A1/A2 B1/D1/D2) fronting Bethnal Green Road. The site is located outside the Bethnal Green Road town centre boundary, approximately 60m to the east. However, it is part of an established retail frontage along Bethnal Green Road, comprising primarily small scale shop and food outlets. Managing Development Document (2013) policy DM2.2 (Local Shops) states that local shops outside a town centre will be supported where there is a local need, are of an appropriate scale, do not detract from the character of the area, and do not undermine nearby town centres. Paragraph 2.3 of the supporting text to this policy states that a shop which is local in nature is considered to have a gross floorspace of no more than 100sq.m.
- 10.12 In this context, with units of 46sq.m and 84sq.m respectively, the proposed commercial units are considered complementary to the existing local shop provision. They should ensure an active ground floor frontage to the development, in keeping with the character of shop provision along this parade. On the Florida street frontage residential uses are provided at ground floor, with front doors onto the street. This is appropriate in this residential location, distinct from the commercial ground floor character of Bethnal Green Road.
- 10.13 Objections from the Cinema Theatre Association and East End Preservation Society state that insufficient consideration has been given to a mixed-use scheme including a cinema. However, there is no policy requirement for such a use on this site.

#### **Heritage, Design and Appearance**

- 10.14 The NPPF (2012) highlights the importance the Government attaches to achieving good design. Paragraph 58 of the NPPF establishes a 'check-list' of the design objectives for new development. Chapter 7 of the London Plan (2011) 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.
- 10.15 Core Strategy (2010) policy SP10.4. states that the Council will 'ensure that buildings and neighbourhoods [will] promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds. Managing Development Document (2013) policy DM24 states that development will be required to be designed to the highest quality standards, incorporating principles of good design, including, ensuring design is sensitive to and enhances local character and setting, ensuring the use of high quality materials and finishes, and protecting features of positive value within the site.

- 10.16 As a whole the borough has a substantial number of identified heritage assets, consisting of 50 conservation areas, approximately 2000 listed buildings, and 700 locally listed buildings. The existing building whilst distinctive in its appearance, and a unique design in this part of Bethnal Green Road, is not within a conservation area, nor is it Statutorily or Locally listed.
- 10.17 In 2014 the question of inclusion of the building on the statutory List of Buildings of Special Architectural or Historic Significance was considered formally by English Heritage. English Heritage's assessment and conclusions are set out in their report issued in August 2014, which concluded the building does not meet the criteria for statutory listing.
- 10.18 The English Heritage report provides an analysis of the existing building in architectural and historic terms. The building was built in 1913 as 'Smart's Picture Palace', in a neo-classical renaissance style, including a central domed tower. In 1938 the building was extensively remodelled in an art deco design. This redesign included replacing the central tower, inserting the curved first floor section, and a projecting entrance canopy. Since this time, and during the 35 years of its use as a warehouse the state of the building and original features have changed. None of the external features related to the 1913 construction remain. From the 1938 remodelling the projecting canopy is gone, and new windows and doors inserted. Also the central tower has been reduced in size. Internally a structural steel mezzanine floor has been inserted, providing office accommodation. The foyer retains no original fittings, and there is no evidence the auditorium's original wall decoration survives.
- 10.19 This assessment is in the context that given the number of cinemas built (about 4,000), for pre-1914 cinemas, completeness is important, and that a surviving exterior with particularly good decoration and a fine canopy may be enough to make the building listable. For later cinemas architectural quality and the extent of alteration are key considerations. In this context, given the extent of alterations to the building and the difficulty in reversing these, English Heritage concluded the building does not meet the criteria for listing.
- 10.20 Although not a designated heritage asset, there is some interest of the building as represented by the remaining façade, which was originally designed by George Cole, and the building is different in its design and appearance from surrounding properties. In this respect the building may be considered as a non-designated heritage asset. Paragraph 135 of the NPPF (2012) states that "the effect of an application on the significance of a non-designated heritage asset should be taken into account in determining the application. In weighing applications that affect directly or indirectly non-designated heritage assets, a balanced judgement will be required having regard to the scale of any harm or loss and the significance of the heritage asset".
- 10.21 As the English Heritage research shows the building has been substantially altered and many of the original features of both the 1913 picturehouse and the 1938 alterations have been lost. Officers have worked with the applicants to retain those elements of the art deco façade which remain, reinstate features that have been lost, and to build on this character in the alterations required to support the proposed residential use of the site behind. The alterations will include the introduction of new entrance doors and shop fronts to the ground floor, a new canopy and new taller tower reflecting the essential art deco character of the original George Cole elevations.

- 10.22 Some of the neighbour objections address the changes to the existing building, and the impact on its character and appearance. The Cinema Theatre Association and East End Preservation Society have objected to the changes and recommended inclusion of the building on the Council's Local List. As addressed below, in the context of the assessment of the current state of the building, it is considered that the development retains those elements of the façade which are of most significance, and represents an appropriate design in this location. Whilst adding a building to the local list is an option open to the local planning authority Officers do not consider it justified or necessary in this case.
- 10.23 The proposed development seeks to retain a physical and architectural reference to the art deco history of the site, and overall this design language has informed the design of the development. This reference is most clear with the proposed Bethnal Green Road frontage of the development. This frontage includes retention of the existing building's façade, with alterations to provide new window openings. This is along with new upper floor elements increasing the height of development to four storeys, with an inset fifth floor. The development would retain, and increase to its original height, the central stepped tower. The development would also retain the first floor curved-in section, and reinstate the original projecting canopy.
- 10.24 In regards to height and scale, the proposed Bethnal Green Road frontage would sit approximately one storey higher than the adjacent building to the east, and approximately two storeys higher than the adjacent building to the west. Policy DM24 emphasizes design sensitive to local character and setting, taking into account surrounding scale and height, as well as roof lines and streetscape rhythm. In this case, the existing building forms a break in the terrace of 3/4 storey brick built development. The degree of change in scale with its neighbours is not considered excessive. Given the set back of upper floors by approximately 3m, the additional height should not overly dominate or compete with adjoining properties. In addition, the fourth floor has been detailed as an inset storey behind a parapet wall, reducing its presence. Given this context, the scale of development is considered appropriate in this location.
- 10.25 In regards to the detailed design of this frontage, the combination of the retained ground and first floor facades (with alterations) and the new upper floor elements are considered to be a convincing combination, overall providing a high-quality design. Officers consider this is achieved partly with the reinstatement of the original central tower, acting as a distinctive feature relevant to the 1930s era, and unifying the old and new elements of the building. It is noted that the new upper floor elements are simple in their design. They reinforce the horizontal emphasis of the building which is characteristic of an art deco approach, whilst the retained tower, curved first floor and projecting canopy provide original and visually interesting elements. Galvanised steel panels, in an art deco motif, along with signage referencing the former Rex cinema, are considered appropriate detailing.
- 10.26 In this respect the Bethnal Green Road frontage of the development is considered to appropriately retain the elements of most significance of the existing building, while providing an acceptable and well considered overall design.
- 10.27 To the north, the Florida Street frontage forms part of a residential area. There is a variety in building scale of surrounding properties. Florida Studios, adjoining to the east, has a two-storey frontage onto the street, with a further three-storey extension to the rear of the site. Further to the east, a part 4/part 5 storey development is under construction on the corner of Florida and Squirries Street. To the west, the

application site directly adjoins the rear gardens of 36-40 Florida Street, a 4-storey residential development. Directly opposite the site is the flank wall of Johnson House, an 11-storey residential block.

- 10.28 The scale of development on this frontage has changed during the course of pre-application discussions. Initially the applicants proposed a building of up to five storeys with an inset sixth floor. However, at application stage this has been reduced to a four-storey development with an inset fifth floor. This is considered an appropriate response to the surrounding scale of development. In contrast to the adjacent eleven-storey block opposite, it should help to reinforce the lower scale character along this street.
- 10.29 As with the Bethnal Green Road frontage, the Florida Street building maintains an art deco language to the design, most prominently from the horizontal emphasis of the fenestration. It also uses a steel art deco motif, found also on the Bethnal Green Road frontage, to provide a prominent decorative element to the elevation, and conceal the internal stairwell. It is overall simpler in its appearance than the frontage on Bethnal Green Road, however, this is considered appropriate given the quieter residential nature of Florida Street. The glazed brick at ground floor level provides an emphasised base to the building, which is considered to sit acceptably well with the upper floors. Overall, the building should sit comfortably in the streetscene whilst contributing successfully to good design and visual interest in this part of Florida Street.
- 10.30 The internal elevations of the development would form the background to the proposed communal amenity area, and would be visible to adjoining residents. These continue the references from the main elevations, including glazed brickwork to the development's ground floor level, glazed mosaic tiles on upper floors, and art deco motif steelwork (used for balcony balustrades). This should provide a broadly coherent design, reflective of the development's design approach overall, and an appropriate degree of visual interest.
- 10.31 In the context of the above, the proposal is considered compliant with NPPF (2012) paragraph 135, Core Strategy (2010) policy SP10 and Managing Development Document (2013) DM24 and DM27.

## **Housing**

- 10.32 The NPPF identifies as a core planning principle the need to encourage the effective use of land through the reuse of suitably located previously developed land and buildings. Section 6 of the NPPF states that "housing applications should be considered in the context of the presumption in favour of sustainable development". Local planning authorities should seek to deliver a wide choice of high quality homes, widen opportunities for home ownership and create sustainable, inclusive and mixed communities.
- 10.33 As mentioned in the Land Use section of the report, delivering new housing is a key priority both locally and nationally.

## **Residential Density**

- 10.34 Policy 3.4 of the London Plan seeks to optimise the density of development with consideration for local context and public transport capacity. The policy is supported by Table 3A.2 which links residential density to public transport accessibility and urban character. Policy SP02 of the Core Strategy (2010) while reiterating the above

adds that density levels of housing should correspond to the Council's town centre hierarchy and that higher densities should be promoted in locations in or close to designated town centres.

- 10.35 The application site measures approximately 0.0775ha and has a public transport accessibility level (PTAL) of 6a (excellent). In an 'urban' setting, with a PTAL between 5 and 6, policy 3.5 suggests a density of 200-700hr/ha. The proposed development would exceed this range at 851hr/ha. This is not considered excessively beyond the range. Given the high PTAL rating for this site, as well as its location at the edge of Bethnal Green town centre, a density around the very top of the density range would be appropriate.
- 10.36 It should be remembered that density serves as one measure of development. Paragraph 3.28 of the London Plan states that housing density is only "the start of planning housing development, not the end, [and] It is not appropriate to apply [Density] Table 3.2 mechanistically". To this end the report will address the impacts and benefits of the development, to assess its overall conformity with policy, and the appropriateness of the proposed development.

#### Affordable Housing

- 10.37 In line with section 6 of the National Planning Policy Framework, the London Plan has a number of policies which seek to guide the provision of affordable housing in London. Policy 3.8 seeks provision of a genuine choice of housing, including affordable family housing. Policy 3.9 seeks to encourage mixed and balanced communities with mixed tenures promoted across London and specifies that there should be no segregation of London's population by tenure. Policy 3.13 states that the maximum reasonable amount of affordable housing should be secured.
- 10.38 The Strategic Housing Market Assessment (2009) identifies that there is an affordable homes shortfall of 2,700 homes per year. Additionally, current rates of over-occupation (over-crowding) are at 16.4%, significantly higher than the national average at 2.7%. The LBTH Community Plan identifies the delivery of affordable homes for local people as one of the main priorities in the Borough and Policy SP02 sets a strategic target of 35-50% affordable homes on sites providing 10 new residential units or more (subject to viability). Policy SP02 requires an overall strategic tenure split for affordable homes from new development as 70% social/affordable rent and 30% intermediate, whilst the London Plan seeks to secure a 60% social/affordable rent and 40% intermediate split.
- 10.39 The application was submitted with a proposed 20% affordable housing, by habitable room. This has been amended during the course of the application, increased to 30% affordable housing, as set out below.

Table 1: Affordable Housing Provision

| Unit Type    | Affordable Housing |          |              |          | Private Sale |          | Total |          |
|--------------|--------------------|----------|--------------|----------|--------------|----------|-------|----------|
|              | Affordable Rent    |          | Intermediate |          |              |          |       |          |
|              | Unit               | Hab. Rm. | Unit         | Hab. Rm. | Unit         | Hab. Rm. | Unit  | Hab. Rm. |
| <b>1-bed</b> | 0                  | 0        | 0            | 0        | 5            | 10       | 5     | 10       |
| <b>2-bed</b> | 1                  | 3        | 1            | 3        | 8            | 24       | 10    | 30       |
| <b>3-bed</b> | 2                  | 10       | 1            | 4        | 3            | 12       | 6     | 25       |
| <b>Total</b> | 3                  | 13       | 2            | 7        | 16           | 46       | 21    | 66       |

- 10.40 The planning application was accompanied by the applicant's financial viability statement setting out their appraisal of the maximum level of affordable housing the development could deliver. The Council's independent assessment found the development could deliver a greater level of affordable housing, up to a maximum of 30% by habitable room. The applicants accept this assessment and have increased the proposed level of affordable housing accordingly.
- 10.41 The affordable housing would be delivered on-site, within the Florida Street building. These would share access and cores with private units, located on upper floors. A registered provider has seen the proposed layout of the affordable units and expressed their interest to take on the affordable dwellings.
- 10.42 The tenure split would be 65% affordable rent and 35% intermediate, which falls directly between the Council's 70/30 and the London Plan's 60/40 targets, and is therefore acceptable. It is also confirmed that the affordable rent units will be let in accordance with the Borough's affordable rent levels for the E2 area.
- 10.43 Overall, the proposal meets policy targets and the overall tenure mix on site would assist in creation of a mixed and balanced community.

#### Dwelling Mix

- 10.44 In line with section 6 of the National Planning Policy Framework and London Plan 3.8, the Council's Core Strategy policy SP02 and policy DM3 of the Managing Development Document require development to provide a mix of unit sizes in accordance with the most up-to-date housing needs assessment. The relevant targets and the breakdown of the proposed accommodation are shown in the table below.

Table 2: Residential Unit Mix

| Unit Size    | Affordable Rented |     |        | Intermediate |     |        | Private Sale |     |        |
|--------------|-------------------|-----|--------|--------------|-----|--------|--------------|-----|--------|
|              | Units             | %   | Target | Units        | %   | Target | Units        | %   | Target |
| <b>1 bed</b> | 0                 | 0%  | 30%    | 0            | 0%  | 25%    | 5            | 31% | 50     |
| <b>2 bed</b> | 1                 | 33% | 25%    | 1            | 50% | 50%    | 8            | 50% | 30     |
| <b>3 bed</b> | 2                 | 67% | 30%    | 1            | 50% | 25%    | 3            | 19% | 20     |
| <b>4 bed</b> | 0                 | 0%  | 15%    | 0            | 0%  | 0%     | 0            | 0   |        |

- 10.45 In regards to the affordable tenure, given the relatively small number of units involved in this case (3 affordable rent and 2 intermediate); percentage calculations of mix can be limited in their use. The affordable rent units would be predominantly 3-bedroom family units (67%), with a two-bedroom unit (33%). Given policy objectives on family accommodation, this is welcomed. The two intermediate units would be two and three bedroom dwellings. Overall this would mean the affordable units do not provide any 1-bedroom dwellings. Given the number of units involved this is considered appropriate, prioritising larger units.
- 10.46 The private tenure mix is a split between 1, 2 and 3-bedroom dwellings. The proposed mix varies from the target in terms of 1 and 2-bedroom units, with a larger proportion of 2-bedroom units. This is not considered detrimental and Officers are satisfied this should ensure a good mix of unit sizes in the development, contributing appropriately to policy objectives.
- 10.47 In accordance with Core Strategy (2010) SPO2 and Managing Development Document (2010), 10% of proposed units are required to be wheelchair accessible or adaptable for wheelchair users. All developments are also required to meet Lifetime Homes Standards. The proposal complies with this policy with two affordable rented wheelchair units. One is a family sized unit which is where the greatest need is. All units would meet Lifetime Homes Standards and this is secured by condition.

#### Standard of Residential Accommodation

- 10.48 London Plan policy 3.5, policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document seek to ensure that all new housing is appropriately sized, high-quality and well-designed. Policy DM25 seeks to protect amenity of future residents by ensuring there are not unacceptable impacts in terms of daylight, sunlight, outlook, privacy, noise and disturbance. Specific standards are provided by the Mayor of London Housing Supplementary Planning Guidance to ensure that new units would be “fit for purpose in the long term, comfortable, safe, accessible, environmentally sustainable and spacious enough to accommodate the needs of occupants throughout their lifetime”
- 10.49 The proposed affordable rent units would be located at ground and lower ground floor level of Block B where amendments have been secured during the course of the application. Ground floor level residential accommodation on Florida Street is supported in principle, being a predominantly residential location and contributing to the activity of the street. In addition a lower ground floor element can be supported where the scheme’s design can ensure it has a good standard of accommodation. At these levels the proposal provides 2 x 3-bedroom duplex units over ground and lower ground, and a 2-bedroom wheelchair unit at ground floor level.
- 10.50 Following concerns from Officers amendments have been secured during the course of the application to the accommodation at ground and lower ground floor level. This included removal of a proposed single aspect 1-bedroom unit. This was omitted from the proposal and the mix of affordable rent units changed to include an additional 3-bedroom unit. In addition, the proposed sunken terraces serving lower ground floor level were increased in depth from 2.2m to 4m. This provides improved outlook and daylight to these rooms, and a more generous amenity space.
- 10.51 Following the amendments the applicant’s submitted daylight assessment demonstrates that each of the 3 affordable rent units would have BRE compliant daylight levels to each of the living/dining rooms, and to 6 of the 8 bedrooms. The two remaining bedrooms fall below the BRE level, but to a small degree and are not

uncommon in an urban context. Following the above amendments two (nos 8 & 9) of the three units would be dual-aspect with their own front doors onto Florida Street. Following the enlargement of the terraces Unit 9 would have a lower ground living space opening onto a private amenity of approximately 25sq.m. Unit 10, which would be a south-facing single aspect unit over ground and lower-ground, would have a generous sized private amenity of approximately 50sq.m. In this respect Officers are satisfied that the units provide an acceptable standard of accommodation overall, including two family sized dwellings, with significant benefits in terms of private amenity provision.

- 10.52 Upper floor accommodation of Block B would be predominantly dual-aspect, with three south-facing single aspect units. All of the habitable rooms would comply with BRE daylight standards. All of the living rooms are south-facing, receiving sunlight during the day, with the majority of living room spaces meeting BRE targets. In this respect the standard of accommodation to upper floor units is acceptable.
- 10.53 Block A, fronting Bethnal Green Road, would provide 7 private sale residential units. These would be on upper floors, except for a single rear ground floor bedroom. They would all be dual-aspect units, and would exceed minimum floorspace standards. The submitted daylight and sunlight assessment demonstrates that each unit would meet minimum BRE daylight standards. Habitable rooms to the south, fronting Bethnal Green Road would all meet BRE sunlight standards.
- 10.54 In regard to privacy, separation distances between Blocks A and B would be between 14m and 16m, acceptable in an urban context of this nature.
- 10.55 In conclusion, the standard of accommodation for future occupiers should be acceptable, in accordance with policies SP02, DM4 and DM25.

#### Private and Communal Amenity Space

- 10.56 London Plan policy 3.5, policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document require adequate provision of private and communal amenity space for all new homes.
- 10.57 The private amenity space standard is set at a minimum of 5sq.m for 1-2 person dwellings with an extra 1sq.m for each additional occupant. All of the proposed residential units would have a private balcony or garden. These would all meet, and in some cases substantially exceed, minimum standards, except for two 3-bedroom units (1 intermediate and 1 market unit), at upper floors of Block B. These were proposed as a compliant 8sq.m balcony, but have been reduced to 6.5sq.m, to improve the relationship with neighbouring windows in respect of privacy (as set out in paragraph 10.68). This is considered a minor shortfall, and overall the development would significantly exceed the minimum policy requirement.
- 10.58 In addition to private amenity the scheme would provide communal amenity in the form of a landscaped courtyard. This would measure approximately 140sq.m, significantly in excess of the minimum 61sq.m required for this development.
- 10.59 In this context the development would provide a private and communal amenity space broadly in line with minimum standards and is acceptable in this context.



### Child Play Space

- 10.60 In addition to the private and communal amenity space requirements, policy 3.6 of the London Plan, policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document require provision of dedicated play space within new residential developments. Policy DM4 advises that developments apply a benchmark of 10sq.m of useable child play space per child. Play space for younger children should be provided on-site, with older children being able to reasonably use spaces off-site, within a short walking distance.
- 10.61 Using the LBTH child yield calculations, the development is anticipated to yield 7 children. (3 of 0-3 years old, 3 of 4-10 years old, and 1 of 11-15 years old). Accordingly 70sq.m would be required for all children on site. This would be provided for within the courtyard amenity. Together with the required quantum of communal amenity the total area required would be 131sq.m, which compares to the proposed 140sq.m.
- 10.62 Notwithstanding that the child playspace provision for all children is met in the development, it is also recognised that the London Mayor's SPG reasonably expects older children to be able to travel up to 400m and 800m from the site for recreation. In this case, Weavers Fields park is less than 200m from the site and would offer suitable recreation for older children. It is also noted that the two 3-bedroom affordable rent units (which alone contribute 3 children to the calculated yield for this development) would have generous sized private gardens of approximately 25sq.m and 50sq.m respectively.
- 10.63 The applicants submission shows the indicative landscaping and layout of the proposed courtyard amenity, and is considered to provide a good quality and useable space. Details on this would be secured by condition.
- 10.64 In this context the proposed child play space provision is considered in accordance with Council standards and acceptable in this respect.

### Noise Impacts

- 10.65 Policy 7.15 of the London Plan (2011), Policies SP03 and SP10 of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013) seek to ensure that development proposals reduce noise by minimising the existing and potential adverse impact and separate noise sensitive development from major noise sources.
- 10.66 The main source of noise impacts to future occupiers would be from traffic movements on Bethnal Green Road. The applicants have addressed this in a submitted Noise Assessment by DKN Acoustics. This reports the results of a noise assessment relating to the Bethnal Green Road façade. Based on these results a glazing specification is proposed to ensure the internal residential environment meets BS8233 (2014) standards.
- 10.67 This is in accordance with the advice of LBTH Environmental Health officers that the development should comply with BS8233. It is also recommended that sound insulation performance between the proposed ground floor commercial units and residential is achieved of at least 55dB.
- 10.68 Any future plant or extracts serving the ground floor commercial would require planning consent and noise and vibration impacts would be considered at that stage.

However, neither use class A3 (cafes and restaurants), A4 (drinking establishments), nor A5 (takeaways) are proposed as part of this development so it is not considered likely that this would be a future requirement.

- 10.69 LBTH Environmental Health has advised that the proposed external amenity spaces on the Bethnal Green Road frontage should comply with the BS8233 standard of 55dB. If this cannot be achieved enclosed winter gardens should be considered. The submitted noise report states that the noise levels in these locations would be approximately 64dB at daytime. Whilst this is above the 55dB standard, it is noted that the BS8233 guidance recognises that this level may not be achievable in all circumstances. Planning Officers consider that winter gardens are not an appropriate option in this case because they would unacceptably compromise the proposed design. It is noted that use of the balconies may not always be during daytime, when traffic is most frequent, and the amenity offered by the balcony spaces should be acceptable. It is also noted that each of the relevant dwellings in Block A are oversized by an average of 9sq.m, lessening the dependence on these spaces for amenity.
- 10.70 Whilst the noise report has been reviewed by the Environmental Health Officer, with no objection to the proposal, further testing would be required post completion. A condition should be secured for post completion assessment for Noise impacts, before residential occupation so as to ensure that future residents are protected from noise disturbance or nuisance.
- 10.71 Considering the site constraints, the proposals are generally in keeping with NPPF, Policy 7.15 of the London Plan (2011), Policies SP03 and SP10 of the Core Strategy (2010) and Policy DM25 of the Managing Development Document (2013).

#### **Impact on Neighbouring Amenity**

- 10.72 In line with the principles of the National Planning Policy Framework the Council's policies SP10 of the Core Strategy and DM25 of the Managing Development Document aim to safeguard and where possible improve the amenity of existing and future residents and building occupants, as well as to protect the amenity of the surrounding public realm with regard to noise and light pollution, daylight and sunlight, outlook, overlooking, privacy and sense of enclosure.
- 10.73 The application site is surrounded by residential properties to the east and west. To the east, on Bethnal Green Road, four-storey terraced properties nos. 287-291. To the east, on Florida Street, a part two-storey/part five storey development, referred to as Florida Studios. To the west, 271-279 Bethnal Green Road, Carly Mews, and 36-40 Florida Street.

#### **Overlooking and Privacy**

- 10.74 Policy DM25 of the Managing Development Document requires new developments to be designed to ensure that there is sufficient privacy and that they do not enable an unreasonable level of overlooking between habitable rooms of adjacent residential properties, schools or onto private open spaces. The degree of overlooking depends on the distance and the horizontal and vertical angles of view.
- 10.75 The layout of the development is such that the two proposed blocks face one another, with views towards neighbouring properties predominantly at an oblique angle. There would be a window to window relationship between the rear elevation of Block B and 287-291 Bethnal Green Road. This would have a separation distance

of approximately 15m, with the proposed rear balcony approximately 13m from the rear of no. 287-291. This would be less than the 18m guideline distance referenced by policy DM25. It is noted that at present these properties currently experience no overlooking or impact on privacy from the application site, given the low scale of the existing building. In this context impact in terms of overlooking would be increased. However, the proposed separation distances are not unusual for an urban context of this nature, and given the site specific context of this location, should be acceptable in this respect.

- 10.76 The flank elevation of 'Florida Studios' includes two windows facing immediately onto the application site. It is a general planning principle that flank facing windows, relying for light and outlook on a neighbouring site, should be avoided, in order to prevent prejudicing future development. In this context, these windows would be afforded little protection in terms of privacy. Notwithstanding this, the proposal has been amended to include mitigation to limit impact on these windows. This consists of setting proposed balconies at first and second floor away from the boundary by approximately 1.4m, and the erection of screening. This should prevent immediate views from the development into these windows and is considered acceptable.
- 10.77 Objections have been received regarding flank windows at the top floor of Block B and their impact on privacy at Florida Studios. These do not have a direct facing relationship with any adjoining properties and are not considered to have a significant impact on neighbouring privacy. In addition these have been obscure glazed and as secondary windows to living spaces, this is acceptable.

#### Outlook and Sense of Enclosure

- 10.78 As described above, the general layout of the development consists of two blocks fronting one another. As such, apart from the relationship of Block B with part of the rear of 287-291 Bethnal Green Road, described above, the proposal would not be located facing any adjoining properties.
- 10.79 Block A would match the depth of 287-291 Bethnal Green Road, to the east, so would have no impact there. Block A would extend beyond the rear elevation of 277-279 Bethnal Green Road, to the west, by approximately 11m. This would have the potential for an increased sense of enclosure to nos. 277-279. In this case the upper floors of the affected property are in commercial use, as offices. As such this is acceptable in this location.
- 10.80 At Florida Studios, to the east, habitable windows look out onto a large rooftop amenity space. The proposal would introduce a flank wall to the western edge of this space obstructing westerly views from this location. At present there is an unobstructed view in this direction over the application site as a result of its low scale, and this proposal would represent a change to this relationship. However, in respect of outlook and sense of enclosure, given the significant openness of the existing rooftop amenity, the impact in this respect should be acceptable.

#### Daylight and sunlight, overshadowing

- 10.81 Guidance relating to daylight and sunlight is contained in the Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight'. The primary method of assessment of daylighting is through calculating the vertical sky component (VSC). BRE guidance specifies that reductions in daylighting materially affect the living standard of adjoining occupiers when, as a result of development, the VSC figure falls below 27 and is less than 80% times its former value.

- 10.82 In order to better understand impact on daylighting conditions, should the VSC figure be reduced materially, the daylight distribution test (otherwise known as the no skyline test) calculates the area at working plane level inside a room that would have direct view of the sky. The resulting contour plans show where the light would fall within a room and a judgement may then be made on the combination of both the VSC and daylight distribution, as to whether the room would retain reasonable daylighting. The BRE does not set any recommended level for the Daylight Distribution within rooms but recommends that where reductions occur, they should be less than 20% of the existing.
- 10.83 The BRE tests for sunlight relate primarily to living rooms. The assessment is carried out on windows within 90 degrees of due south. Levels are measured in terms of Annual Probable Sunlight Hours (APSH), which relates to long-term average of the total hours during a year in which sunlight reaches the unobstructed ground. The APSH assessment says that existing living room windows should receive at least 25% of APSH throughout the year, and 5% of APSH during the winter months, and the difference between the APSH should not be less than 0.8 times its former value.

#### 271-279 Bethnal Green Road

- 10.84 Of the 23 windows surveyed 17 would have either a VSC of greater than 27% or a change of no less than 0.8 times its former value, therefore with no noticeable impact on daylight levels. Of the remaining 6 windows, 3 would have a change of no less than 0.7 times its former value. Whilst this falls below the BRE standard of 0.8, given the dense urban context of this site, this level is considered acceptable. The remaining 3 windows either serve bathrooms or are secondary windows. These windows face due north so are not assessed in terms of sunlight.

#### Carly Mews

- 10.85 A total of 25 dwellings were tested in respect of daylight and sunlight levels. All windows would meet BRE standards, and are acceptable.

#### 36-40 Florida Street

- 10.86 A total of 5 windows adjacent to the application site were assessed in respect of daylight and sunlight levels. All windows would meet BRE standards, with no noticeable change.

#### Florida Studios

- 10.87 A total of 19 windows were assessed on both the north, south and flank elevations. Of these windows 8 have either a VSC level greater than 27% or 0.8 times its former value, and are acceptable. Of the remaining 11 windows 4 have a relative VSC level of between 0.61 and 0.76 its former value. However, when assessed further in respect of the No Sky Line test, each of the rooms served by these windows would maintain daylight levels of no less than 0.8 times their former value, and are acceptable. The remaining 7 windows are rooflights, for which the BRE tests do not apply. However, Officers have considered the relationship with the proposed development, and the orientation of the rooflights with a direct sky view, and are satisfied, as with other tested windows, the impact in terms of daylight should be acceptable. In regards to sunlight, seven windows within 90 degrees of due south were tested and comply with BRE standards in respect of APSH.

### 287-291 Bethnal Green Road

- 10.88 A total of 6 windows adjacent to the application site were assessed in terms of daylight. 2 of the windows, on the upper floor, passed the 25 degree line test and do not require further assessment. The remaining 4 windows have either a VSC of at least 27% or a change of no less than 0.8 times its former value, and are acceptable. As these windows are orientated due north an assessment of sunlight is not required.

### Overshadowing of surrounding amenity spaces

- 10.89 The BRE standards advise that for an amenity space to appear adequately sunlit throughout the year, at least half the area should receive at least two hours of sunlight on 21 March. There are four amenity spaces within close proximity to the application site. These are roof gardens serving 287-291 Bethnal Green Road (A4), and Florida Studios (A3), as well as ground floor amenity spaces serving 36-40 Florida Street (A2) and the eleven-storey Johnson House (A1), to the north.
- 10.90 Amenity spaces A1, A2 and A3 would each receive the standard two hours of sunlight over 50% of the area. Amenity space A4, would receive two hours of sunlight over 48% of the area. This is marginally below the standard 50%. However, with the removal of the pitched roof of the existing building it is an improvement over the existing situation where only 31% of the area receives the standard 2 hours of sunlight.

### Impact of Proposed Commercial Uses

- 10.91 As described above, Block A of the proposal would include 2 x commercial units at ground floor level. These would form part of the existing retail parade along this part of Bethnal Green Road. The applicants propose a flexible use of A1 (shops), A2 (financial and professional services), B1 (offices), D1 (non-residential institutions) and D2 (assembly & leisure).
- 10.92 In regards to noise and disturbance to residential properties, a number of the proposed uses, A1, A2, and B1 are not considered significant in terms of potential for disturbance. The most potential for impact on residential amenity would be some D1 and D2 uses, which can include places of worship and gymnasiums. The application was submitted with a rear terrace area to the commercial units, opening into the communal amenity area. This has been omitted from the scheme with the only accesses to the commercial units from the street frontage. It is also noted that these are small units, one of which is less than 50sq.m in size. In this context, with sound insulation to these units secured by condition, it is considered the proposed commercial units should not have a substantial impact on residential amenity.

### **Transport, Access and Servicing**

- 10.93 The National Planning Policy Framework emphasizes the role transport policies have to play in achieving sustainable development and stipulates that people should have real choice in how they travel. Developments should be located and designed to give priority to pedestrian and cycle movements, and have access to high quality public transport facilities, create safe and secure layouts which minimise conflicts between traffic and cyclists or pedestrians and consider the needs of people with disabilities.
- 10.94 The London Plan seeks to shape the pattern of development by influencing the location, scale, density, design and mix of land uses such that it helps to reduce the

need to travel by making it safer and easier for people to access jobs, shops, leisure facilities and services by public transport, walking and cycling. Strategic Objective SO20 of the Core Strategy (2010) states that the Council seeks to: “Deliver a safe, attractive, accessible and well-designed network of streets and spaces that make it easy and enjoyable for people to move around on foot and bicycle.” Policy SP09 provides detail on how the objective is to be met.

10.95 Policy DM20 of the Council’s Managing Development Document reinforces the need to demonstrate that developments would be properly integrated with the transport network and would have no unacceptable impacts on the capacity and safety of that network. It highlights the need to minimise car travel and prioritise movement by walking, cycling and public transport.

10.96 The site benefits from excellent access to public transport, being located within approximately 700m of Shoreditch High Street Overground, Bethnal Green National Rail, and Bethnal Green Underground. Bus nos. 8, 106, 254, 309, 388, D3 and D6 all serve Bethnal Green Road. The site has a Public Transport Accessibility Level of 6a.

#### Cycle Parking

10.97 The London Plan policy 6.9 and policy DM22 of the Managing Development Document set minimum cycle parking standards for residential development. In accordance with these standards, the application proposes 38 secure cycle spaces.

10.98 Transportation and Highways officers objected to the cycle storage as submitted. This was at lower ground floor level, accessed from the centre of the communal amenity area. The staircase to the cycle store was curved, as was the lower ground floor layout with the arrangement of cycle stands also curved. In addition to the objection from Transportation and Highways, Planning Officers objected to the proposed access in the centre of the communal amenity, impacting the usability of this space.

10.99 The amended arrangement relocates the bicycle store entrance to the eastern edge of the communal amenity. It removes curved elements from both the staircase and the lower-ground layout. It is generally preferable to have cycle storage at ground floor level. However, where a staircase incorporates a cycle ramp, so cycles need not be lifted, as proposed, a ground floor location is not considered necessary to make the storage acceptable. Notwithstanding this, the applicants have included 4 cycle spaces at ground floor level to supplement the main store. Overall, this secures an acceptable storage solution, and in its new location should not significantly affect the use of the communal amenity.

#### Car Parking

10.100 Core Strategy (2010) policy SP09 states that the Council will promote car-free developments and those schemes which minimise on-site and off-site car parking provision, particularly in areas with good access to transport. Policy DM22 sets out the Council’s maximum parking levels in new developments. This proposal would be car-free. In a location with a PTAL of 6a, indicating excellent access to public transport, this is appropriate and in accordance with Council policy objectives of encouraging public transport use and reducing congestion.

10.101 The development would also be subject to a ‘car-free’ planning obligation restricting future occupiers from obtaining residential on-street car parking permits, with the

exception of disabled occupants or beneficiaries of the Council's permit transfer scheme.

#### Servicing and Refuse Storage

- 10.102 Given the scale of the proposed commercial uses, the extent of servicing required is not considered to be substantial. Notwithstanding this, as with adjoining businesses, existing parking bays are available directly in front of the application site, on Bethnal Green Road.
- 10.103 Further to policy SP05 of the Core Strategy which requires provision of adequate waste storage facilities in all new development, policy DM14 of the Managing Development Document sets out the Council's general waste and recycling storage standards.
- 10.104 The residential waste storage for the development would be located to the rear of Block A. The capacity would be in line with Council standards and the bins would be moved to the Florida Street frontage on collection day. Storage for commercial uses would be provided within each unit, with existing collections three times a day. The proposed waste storage is acceptable to waste strategy officers.

### **Sustainability and Environmental Consideration**

#### Energy Efficiency and Sustainability Standards

- 10.105 The National Planning Policy Framework sets out that planning plays a key role in delivering reductions to greenhouse gas emissions, minimising vulnerability and providing resilience to climate change. The NPPF also notes that planning supports the delivery of renewable and low carbon energy and associated infrastructure.
- 10.106 At a strategic level, the climate change policies as set out in chapter 5 of the London Plan 2011, Tower Hamlets Core Strategy (2010) policies SO24 and SP11 and the Managing Development Document (2013) policy Dm29 collectively require developments to make the fullest contribution to the mitigation and adaptation to climate change and to minimise carbon dioxide emissions.
- 10.107 In line with London Plan policy 5.6, the Core Strategy (2010) policy SP11 seeks to implement a network of decentralised heat and energy facilities that connect into a heat and power network. Policy DM29 requires development to either connect to, or demonstrate a potential connection to a decentralised energy system.
- 10.108 The Managing Development Document (2013) policy 29 includes the target for new developments to achieve a 50% reduction in CO<sub>2</sub> emissions above the Building Regulations 2010 through the cumulative steps of the Energy Hierarchy. From April 2014 the Council have applied a 45% carbon reduction target beyond Part L 2013 of the Building Regulations as this is broadly equivalent.
- 10.109 The proposals have followed the London Plan energy hierarchy and seek to minimise carbon emissions through the implementation of energy efficiency measures including high efficiency gas boilers and photovoltaic panels. The carbon reductions would result in a circa 28.6% reduction against the Building Regulations 2013. As this is a shortfall of the 45% target a £9,900 carbon offset contribution is secured.
- 10.110 The residential element of the development has been designed to achieve a minimum Code for Sustainable Homes Level 4.

10.111 The proposed energy efficiency and sustainability measures are supported by the Council's Energy Efficiency and Sustainability section. Subject to relevant conditions to secure the above Energy and Sustainability strategy, it is considered the proposal complies with the relevant policies and that no further mitigation is required.

#### Biodiversity

10.112 Policy 7.19 of the London Plan, policy SP04 of the Core Strategy (2010) and policy DM11 of the Managing Development Document seek to protect and enhance biodiversity value through the design of open space and buildings and by ensuring that development protects and enhances areas of biodiversity value in order to achieve an overall increase in biodiversity.

10.113 On the advice of the Council's Biodiversity Officer a survey of the site's potential for bat roosting was carried out during the course of the application. This found no significant potential for bat roosting. The Council's Biodiversity Officer accepts the conclusion of this report and no further action is required.

10.114 The Biodiversity Officer identifies that the greatest contribution to biodiversity targets would be the roofs of the proposed development. It is advised that biodiverse green roofs would be most beneficial, and details of this should be reserved by condition.

#### Land Contamination

10.115 The site has been identified as having potential historic contamination. In accordance with the Environmental Health Contaminated Land Officer's comments a condition will be attached which will ensure the developer carries out a site investigation to investigate, identify and remediate potential contamination.

#### Flood Risk

10.116 The application site is not located within a flood risk zone.

#### **Planning Obligations**

10.117 Planning Obligations may be used to mitigate the impact of the development or to control certain aspects, such as affordable housing. The NPPF and Regulation 122 of CIL Regulations 2010 requires that planning obligations must be:

- (a) Necessary to make the development acceptable in planning terms;
- (b) Directly related to the development; and
- (c) Fairly and reasonably related in scale and kind to the development.

10.118 In addition, Regulation 123 of the CIL Regulations 2010 requires that planning obligations may not be sought for items already listed in the Council's Regulation 123 list.

10.119 In this context, the Section 106 planning obligations for this development are:

#### Financial Obligations

- (a) A contribution of **£9,900** towards carbon reduction.
- (b) A contribution of **£5,839** towards employment and training skills for local residents. This is secured in relation to the construction phase of the development and is aimed at improving access to construction jobs for local residents.



## **Total £15,739**

### Non-Financial Obligations

- (a) Affordable Housing 30% by habitable room (5 units)  
65% Affordable Rent at Borough Rent levels for E2 (3 units)  
35% Intermediate Units (2 units).
- (b) Access to employment  
20% Local Procurement  
20% Local Labour in Construction
- (c) Car-free Agreement

10.120 The proposed contributions are considered in accordance with the CIL Regulations 2010 and appropriate in this case.

### **Local Finance Considerations**

10.121 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:

10.122 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.

10.123 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.

10.124 In this context “grants” might include the New Homes Bonus.

10.125 These issues are material planning considerations when determining planning applications or planning appeals.

10.126 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 non-ring 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.

10.127 This application is subject to the Borough’s Community Infrastructure Levy (CIL), which came in to force for applications determined from 1<sup>st</sup> April 2015. This is a

standard charge, based on the net new floorspace of the proposed development, the level of which is set in accordance with the Council's adopted CIL charging schedule.

10.128 The estimated Borough CIL contribution for this development is **£182,495**. This is payable on commencement of the development, and the amount will be confirmed at that stage by the LBTH Infrastructure Planning Team.

The LBTH Borough CIL secures infrastructure contributions from development and can be spent by the Council on those infrastructure types set out in the Council's Regulation 123 list.

10.129 Members are reminded that that the London Mayoral CIL will be payable on this scheme. The likely CIL payment associated with this development would be **£34,000**.

### **Human Rights Considerations**

10.130 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:-

10.131 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".

10.132 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.

10.133 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.

10.134 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.

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

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

10.137 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**

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

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

10.139 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.

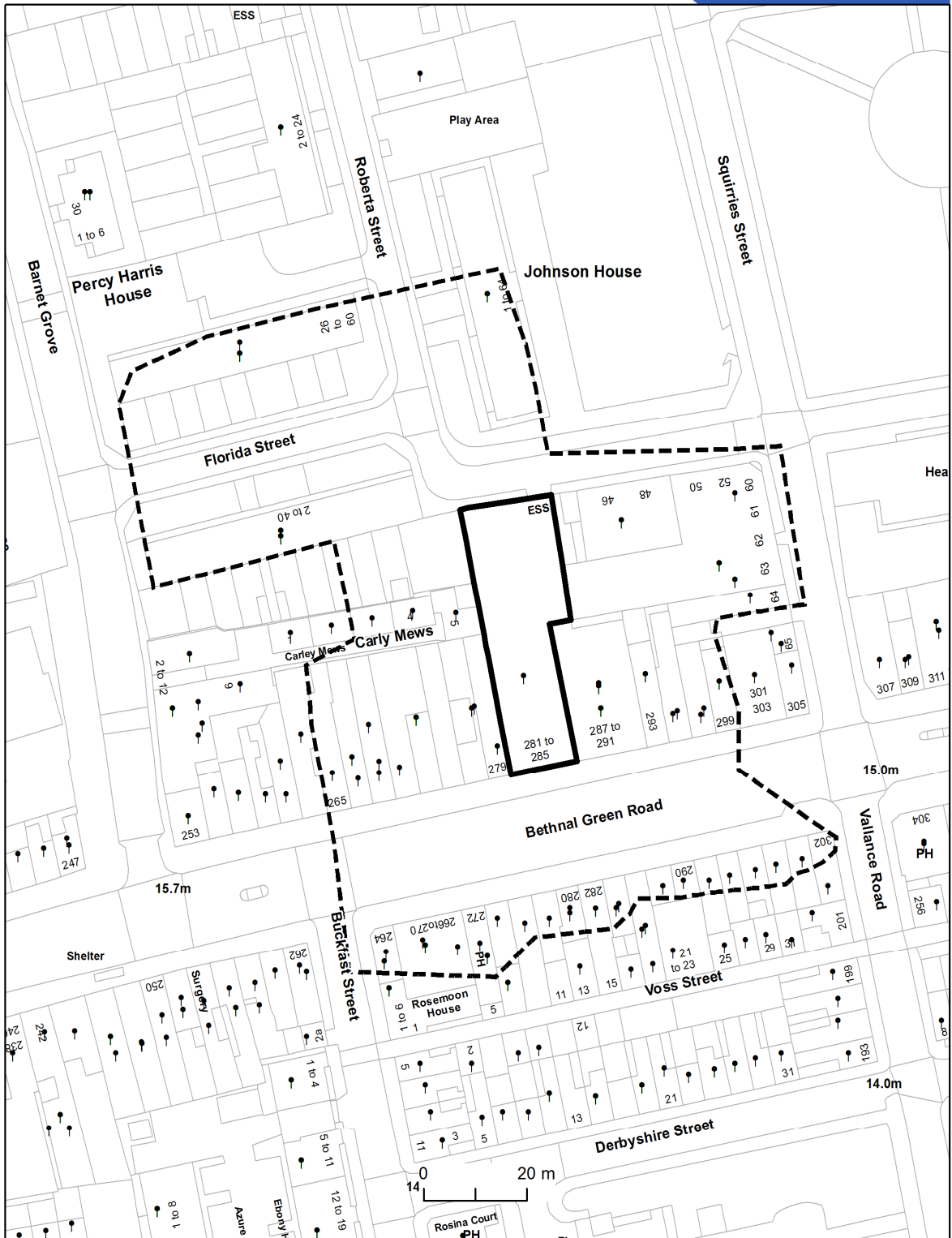
10.140 Furthermore, the requirement to use local labour and services during construction enables local people to take advantage of employment opportunities.

## **11 CONCLUSION**

11.1 All other relevant policies and material considerations have been taken into account. Planning permission should be granted in accordance with the RECOMMENDATION section of this report.

# Planning Application Site Map

## PA/14/03424



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

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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