

Committee: Strategic Development	Date: 24 August 2016	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Christopher Stacey-Kinchin	Ref No: PA/16/00425
	Ward: Bethnal Green

1.0 APPLICATION DETAILS

Location: Redundant Railing Viaduct North of Pooley House, Westfield Way, London

Existing Use: Railway Viaduct (Sui Generis)

Proposal: The erection of two separate four storey podium blocks of Student Apartments – the easterly block flanked by two eight storey towers rising from the podium level and the western block by an eight storey block and a ten storey tower at the western end terminating the view along the Campus Access Road to the south. 412 student rooms are proposed which include 344 en suite single rooms, 32 self-contained studios, 36 rooms designed for students with disabilities, 67 kitchen/diners and communal facilities on the site of a redundant railway viaduct running along the northern boundary of the Queen Mary College Campus in Mile End, London.

Application for variation of Condition 2 (approved plans) of planning permission reference APP/E5900/A/12/2173692, dated 26/03/2013, for a minor material amendment to the approved scheme including;

- Amended unit type and room design – changed from 332 en-suite and 80 studios to 334 cluster rooms and 78 studios;
- Amended internal layouts to improve the entrance / security arrangements and communal facilities;
- Provision of roof top plant (within the envelope of the approved scheme); and
- Elevational changes to reflect the internal arrangements and Scape’s design aspirations, including a reduction, in part, in the overall massing of the building.

Drawings and documents: Site Location Plan, Dated Nov 2015
Site Plan Ground Floor Level, Dated July 2016
Site Plan First Floor Level, Dated June 2016
Proposed Ground Floor, Dated July 2016
Proposed First Floor, Dated Jan 2016
Proposed Second & Third, Dated Jun 2016
Proposed Fourth & Fifth, Dated Jun 2016
Proposed Sixth & Seventh, Dated Jun 2016
Proposed Eight & Ninth, Dated Jun 2016
Proposed Roof, Dated Jun 2016
Elevation to South (With Plant), Dated May 2016
Elevation to North (With Plant), Dated May 2016
East Elevation Section HH (With Plant), Dated May 2016
West Elevation AA (With Plant), Dated May 2016
Sections (1) Section BB
Sections (2) Section CC
Section (3) Section DD
Section (4) Section EE (With Plant)
Section (5) Section FF (With Plant)
Section (7) Section GG
Design and Access Statement, Dated Feb 2016
Supplementary Design and Access Statement, Dated Jun 2016

Applicant: Scape Living / Leopard Guernsey Westway Ltd

Ownership: Network Rail
Queen Mary & Westfield College University of London

Historic Building: None

Conservation Area: Development sits adjacent to Regents Canal conservation area

2.0 EXECUTIVE SUMMARY

- 2.1 This application is reported to the Strategic Development Committee as the proposal has attracted a total of 4 written objections and a petition in objection to the scheme containing 104 signatures which raises material planning considerations discussed in paragraph 7.3 of this report.
- 2.2 This application has been considered against the Council's approved planning policies contained in the London Borough of Tower Hamlets adopted Core Strategy (2010) and Managing Development Document (2013) as well as the London Plan 2016 and the National Planning Policy Framework and all other material considerations.
- 2.3 The proposal is for the erection of two separate four storey podium blocks of Student Apartments – the easterly block flanked by two eight storey towers rising from the

podium level and the western block by an eight storey block and a ten storey tower at the western end terminating the view along the Campus Access Road to the south containing 412 student rooms along with associated kitchen/diners and communal facilities on the site of a redundant railway viaduct running along the northern boundary of the Queen Mary College Campus in Mile End, London.

- 2.4 This application is for the variation of condition 2 (approved plans) relating to planning permission reference APP/E5900/A/12/2173692, dated 26/03/2013, for a minor material amendment to the approved scheme including; amended unit type and room design – changed from 332 en-suite and 80 studios to 334 cluster rooms and 78 studios; amended internal layouts to improve the entrance / security arrangements and communal facilities; provision of roof top plant (within the envelope of the approved scheme); and elevational changes to reflect the internal arrangements and Scape's design aspirations, including a reduction, in part, in the overall massing of the building.
- 2.5 The proposed amendments to the previously approved scheme are considered to be acceptable. The revisions to the student housing mix and internal layout alterations which are minor in nature are considered to be acceptable as they will improve the standard of accommodation on site.
- 2.6 The alterations to the massing and elevational treatment of the building, along with the amendments to the entrance/security arrangements are generally considered to improve the overall aesthetic of the building and are thus considered acceptable in design terms.
- 2.7 The minor amendments to the cycle parking provision on site are considered to be acceptable as they result in an improved cycle parking provision overall on site.
- 2.8 Alterations to the scheme including the reduction in north facing bedrooms and ground floor level bedrooms are considered acceptable as they will improve the level of amenity afforded to future occupiers of the building.
- 2.9 The amendments to the refuse provision on site are minor in nature and can therefore be considered to be acceptable in relation to the relevant policies and standards.
- 2.10 The installation of additional plant on the roof of the building is considered to be acceptable as it is to be screened by an acoustic enclosure which has been designed to match the appearance of the building.

3.0 RECOMMENDATION

- 3.1 That the Committee resolve to **GRANT** planning permission subject to:
 - a) A deed of variation to link the current S.73 application to the previous S.106 agreement dated 26th June 2012 (as amended by a deed of variation dated 14th February 2013).
 - b) That the Corporate Director of Development & Renewal is delegated authority to recommend the following conditions and informatives in relation to the following matters:

3.2 Conditions on the original planning permission

1. Time limit
2. Development to be built in accordance with the approved plans
3. Submission of material samples
4. Scheme of landscaping
5. Wheelchair accessible unit details
6. Energy efficiency measures
7. BREEAM certificates
8. Contaminated land
9. Verification report
10. Restoration of railway viaduct
11. Cycle parking
12. Highway improvement works
13. Travel advice note
14. Servicing management strategy
15. Refuse and recycling facilities
16. Waste management strategy
17. Noise mitigation measures
18. Details of plant and equipment
19. Construction management plan
20. Surface water drainage
21. Piling and foundation designs
22. Petrol/oil interceptors
23. Building management statement
24. Roof terraces hours of use
25. Details of external lighting and CCTV
26. Ecological appraisal report
27. Bat and Black Redstart survey
28. Provision of ecological enhancements prior to occupation
29. Scheme of landscaping for area between the development and Pooley House
(It should be noted that some of these conditions have already been discharged and so will become compliance conditions, also as the development has commenced the time limit for implementation will also not be relevant)

3.3 Informatives on planning permission

None

4.0 PROPOSAL AND LOCATION DETAILS

Proposal

- 4.1 This application is made under Section 73 of the Town and Country Planning Act 1990. This section of the act enables the 'varying' or 'amending' of conditions.
- 4.2 Section 73 applications involve the consideration of the conditions subject to which a previous planning permission was granted. It is important to note that a Section 73 application is not considering the principle of the development, as planning permission has already been granted for this. If it is decided that the proposed amendments to the conditions are not desirable then the application should be refused. However, if it is not the case then the application should be approved subject to differently worded conditions.

- 4.3 The approved scheme under appeal ref APP/E5900/A/12/2173692 (LBTH ref PA/10/01458) included the erection of two blocks of student apartments, featuring 412 student rooms (332 en-suite single rooms, 58 self-contained studios and 22 rooms designed for students with disabilities), 62 kitchen/diners and communal facilities. The two blocks both featured four storey podium blocks, with the eastern block being flanked by two eight storey towers rising from the podium level, and the western block being flanked by one eight storey and one ten storey tower. The proposal also included storage facilities for Queen Mary University at the western end of the site.
- 4.4 Whilst the amended proposal has been developed to sit within the key parameters established by the consented scheme, including the number of bedrooms, building footprint and massing, the following changes to the approved consent APP/E5900/A/12/2173692 (PA/10/01458) are proposed:
- Amended unit type and room design – changed from 332 en-suite and 80 studios to 334 cluster rooms and 78 studios;
 - Amended internal layouts to improve the entrance / security arrangements and communal facilities;
 - Provision of roof top plant (within the envelope of the approved scheme); and
 - Elevational changes to reflect the internal arrangements and Scape’s design aspirations, including a reduction, in part, in the overall massing of the building.

Site and Surroundings

- 4.5 The application site relates to a rectangular plot of land which is approximately 0.469 hectares in size, and is 172m in length and 25m in width. The site previously consisted of a redundant railway viaduct, however this has now been demolished and the site is currently empty and features 2m high hoarding around its boundaries.
- 4.6 The application site sits at the northern end of the Queen Mary University campus, directly adjacent to the operational Great Eastern main line railway to the north, the Regent’s Canal to the east, the Longnor Estate to the west (which features a mixture of properties of between two to four storeys), and Pooley House (an eight storey student housing block) to the south. To the north of the railway line sits the housing developments of Sutton’s Wharf and Leamore Court (on Meath Crescent) which are 9 and 10 storeys in height respectively.
- 4.7 The application site does not feature, nor sits adjacent to, any statutory or locally listed buildings, however the site does sit directly adjacent to the Regent’s Canal conservation area which sits to the east of the site.

Relevant Planning History

- 4.9 PA/08/02485 – Outline Planning Permission for the erection of a four storey podium block with four towers rising a further eight storeys to provide accommodation for 431 students with kitchen/diners, common rooms, communal facilities and ground floor workshops. (No further action taken)
- 4.10 PA/09/00242 – Erection of a four storey podium block of student apartments with 4 eight storey towers rising from podium level to include 431 en-suite single and double rooms, rooms designed for students with disabilities, kitchen / diners, common

rooms, communal facilities and ground floor workshops. (Application withdrawn 16/04/2009)

- 4.11 PA/09/01445 – Erection of two four storey podium blocks, the easterly block flanked by eight storey towers and the westerly block by an eight storey and a ten storey tower to provide student accommodation comprising 380 en-suite single rooms, 28 studios, eight rooms for students with disabilities, 72 kitchen/diners, communal facilities and ground floor workshops. (Application withdrawn 09/12/2009)
- 4.12 PA/10/1458 - The erection of two separate four storey podium blocks of Student Apartments – the easterly block flanked by two eight storey towers rising from the podium level and the western block by an eight storey block and a ten storey tower at the western end terminating the view along the Campus Access Road to the south. 412 student rooms are proposed which include 344 en suite single rooms, 32 self-contained studios, 36 rooms designed for students with disabilities, 67 kitchen/diners and communal facilities on the site of a redundant railway viaduct running along the northern boundary of the Queen Mary College Campus in Mile End, London E1. The proposal also includes storage facilities for Queen Mary College at the western end of the site. (Permission refused 12/10/2011, allowed on appeal 26/03/2013)
- 4.12 PA/13/01344 – Non-material amendment following the grant of planning permission by the Planning Inspectorate dated 26/03/2013, Ref: PA/10/01458 (PINS Ref. APP/E5900/A/12/2173692) to change of wording of conditions 3, 4, 12, 20 and 29. (Permission granted 25/06/2013)
- 4.13 PA/13/01345 – Non-material amendment following the grant of planning permission by the Planning Inspectorate dated 26/03/2013, Ref: PA/10/01458 (PINS Ref. APP/E5900/A/12/2173692) to change of wording of conditions 5, 6, 11, 17, 18 and 25. (Permission granted 25/06/2013)
- 4.14 PA/16/00441 – Confirmation of implementation of Appeal Ref: APP/E5900/A/12/2173692 Storage unit construction. (Permission granted 14/04/2016)

5.0 POLICY FRAMEWORK

- 5.1 Section 38(6) of the Planning and Compulsory Purchase Act (2004) requires that the determination of this application must be made in accordance with the development plan unless material considerations indicate otherwise.
- 5.2 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:

5.3 Government Planning Policy

National Planning Policy Framework 2012
National Planning Practice Guidance

5.4 London Plan 2016

3.8 – Housing choice
5.17 – Waste capacity
6.3 – Assessing effects of development on transport capacity

- 6.9 – Cycling
- 6.13 – Parking
- 7.1 – Lifetime neighbourhoods
- 7.2 – An inclusive environment
- 7.3 – Designing out crime
- 7.4 – Local character
- 7.6 – Architecture
- 7.8 – Heritage assets and archaeology

5.5 **Core Strategy 2010**

- SP02 – Urban living for everyone
- SP05 – Dealing with waste
- SP09 – Creating attractive and safe streets and spaces
- SP10 – Creating distinct and durable places
- SP12 – Delivering placemaking

5.6 **Managing Development Document 2013**

- DM6 – Student accommodation
- DM14 – Managing waste
- DM20 – Supporting a sustainable transport network
- DM22 – Parking
- DM23 – Streets and the public realm
- DM24 – Place-sensitive design
- DM25 – Amenity
- DM27 – Heritage and the historic environment

5.7 **Supplementary Planning Documents**

N/A

6.0 **CONSULTATION RESPONSE**

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

6.2 The following were consulted regarding the application:

Crime Prevention Officer

6.3 No objection.

Design Council

6.4 No comments received.

LBTH Design Officer

6.5 No objection.

LBTH Environmental Health – Noise and Vibration

6.6 No comments received.

Greater London Authority

6.7 No objection – Does not require the application to be referred at stage II.

Transport for London

6.8 No objection.

LBTH Transport and Highways

6.9 No objection.

7.0 LOCAL REPRESENTATION

7.1 A total of 3107 letters were sent to neighbours and interested parties. A site notice was also displayed on site and the application was advertised in 'East End Life'.

7.2 The number of representations received in response to notification and publicity of the application is as follows:

No of individual responses:	Objecting: 4
	Supporting: 1
	Comments: 1

No of petition responses:	Objecting: 1 containing 104 signatories
	Supporting: 0

7.3 The following comments were raised in objection to the proposal:

- The proposal will result in an over-development and over-population of the site and will lead to an unacceptable loss of daylight on many areas of the Longnor Estate, especially for the newly built houses on Bradwell Street.
- The proposal will be visually overbearing, and would be totally out of keeping with the neighbouring properties, which are mainly four storey blocks of flats and two storey houses.
- The proposal will lead to a significant impact upon traffic, parking and access on the Longnor estate. This will cause traffic problems and create a safety hazard for other motorists and residents.
- The proposal will have a detrimental impact on residents due to the increased potential of late night disturbance from the occupation of the student housing. In addition, the overpopulation of the area with high-rise student accommodation will lead to the diminishment of a family-orientated community.
- The proposal will have a detrimental effect on the natural biological life of the surrounding space.
- The proposal will be in our direct line of vision, and will take away our view of the City of London completely.

7.4 The following comments were raised in support of the proposal:

- The proposal should be given consent.

7.5 The following comments (neither objecting nor supporting the application) were also made on this proposal:

- The proposal should incorporate a rainwater harvesting system on the roof so that rainwater runoff could be used to flush toilets and irrigate the planting around the development.

8.0 MATERIAL PLANNING CONSIDERATIONS

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

1. Student Housing
2. Design
3. Transport and Highways
4. Amenity
5. Refuse
6. Environmental Considerations
7. Conclusion

8.2 As this application is a minor material amendment to a previously consented scheme, the principal of the development has not been reconsidered by officers, and this report only deals with the aspects of the proposal that the applicant seeks to amend.

Student Housing

8.3 The proposed amendments to the scheme result in a slightly amended mix of units, changing from 332 en-suite rooms and 80 studios (412 units) to 334 cluster rooms and 78 studios (412 units). 30 of the cluster rooms are to be wheelchair accessible, and 11 of the studios are to be wheelchair accessible.

8.4 Policy 3.8 of the London Plan (2016) states that development proposals which propose student housing should meet a demonstrable local need and not compromise capacity for delivering conventional homes.

8.5 The Council's Core Strategy policy SP02 seeks to support the provision of student accommodation that meets identified need by focusing student accommodation supporting Queen Mary University in close proximity to the university.

8.6 The Council's Managing Development Document policy DM6 supports the provision of purpose-built student accommodation in locations identified within the Core Strategy and where: it does not compromise the supply of land for new homes and the Council's ability to meet its housing targets; it contributes to the provision of affordable housing if not providing accommodation specifically for accredited colleges and universities; it does not create an over-concentration of student accommodation in the local area or cause harm to residential amenity; and it does not place excessive pressure on existing social and physical infrastructure.

8.7 As a result of a new operator taking on the scheme a number of alterations to the accommodation have taken place in order to bring the proposals in line with their standards which have resulted in minor internal alterations to the accommodation and a slightly amended mix of units. The previous en-suite rooms have now been relabelled as cluster rooms, however in principle offer a similar typology of accommodation (i.e. between 5 and 8 private bedrooms with en-suite accommodation

sharing a kitchen/dining/living space), and the mix of rooms has also slightly altered from 332 en-suite rooms and 80 studios to 334 cluster rooms and 78 studios. It should also be noted that the previously consented scheme (APP/E5900/A/12/2173692 (PA/10/01458)) featured a total of 38 wheelchair accessible rooms, whereas the proposed amended scheme features a total of 40 wheelchair accessible rooms (representing 10% of the overall quantum of units).

- 8.8 All ground floor rooms have been relocated above ground floor and the number of north facing bedrooms has also been reduced from 17% to 7%. Communal facilities including: study rooms; meeting rooms; reception lounge; communal dining room; gym; games room; and TV room have also been reorganised and are now all accessible to both blocks encouraging students from both blocks to mix.
- 8.9 Officers consider that the minor amendments made to the accommodation of the scheme are acceptable as they generally improve the quality of the accommodation within the scheme.

Design

- 8.10 The application proposes to make alterations to the entrance/security arrangements of the building, make a number of elevational alterations to the building, provide additional plant at roof level, and reduce the overall massing of the building (notably the building's height) by reducing the floor to floor heights within the building.
- 8.11 Policies 7.1, 7.2 and 7.3 of the London Plan (2016) seek to ensure that proposed buildings reinforce or enhance the character, legibility, permeability, and accessibility of the neighbourhood, incorporate the principles of inclusive design and reduce the opportunities for criminal behaviour. Policies 7.4, 7.6 and 7.8 of the London Plan (2016) seek to ensure that proposed buildings are of a high architectural quality and relate well to their surroundings. Where proposals affect the setting of heritage assets, they should be sympathetic to their form, scale, materials and architectural detailing.
- 8.12 The Council's Core Strategy policy SP10 seeks to ensure that proposals promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds. Proposals should also project and enhance heritage assets such as statutory listed buildings and their settings.
- 8.13 The Council's Managing Development Document policies DM24 and DM27 seek to ensure that development will be designed to the highest quality standards, incorporating principles of good design. Development is also required to protect and enhance the borough's heritage assets, their setting and their significance as key elements of developing the sense of place of the borough's distinctive 'Places'.
- 8.14 The proposed amendments to the entrance/security arrangements of the building involve replacing a number of separate entrances (proposed under the previously consented scheme APP/E5900/A/12/2173692 (PA/10/01458)) with a single entrance within the central courtyard which will be overlooked by the reception desk and will also be well lit. Officers consider that this amendment represents an improvement to the scheme and this view is also shared by the secure by design officer.
- 8.15 The consented elevations are predominantly formed of brick with punched windows and metal clad projecting bay elements. The amended proposals follow the principles of the consented design however now feature projecting windows to all of the student

rooms on the upper levels of the building (a mixture of horizontal and triangular projecting windows) and different facing materials, consisting of dark blue bricks (to match that found on the canal edges), white perforated aluminium panels and bronze aluminium panels on the horizontal projecting window elements. These amendments have been reviewed by the Council's urban design team who are content with the proposals and did not raise any objections to the proposed amended elevation designs.

- 8.16 The proposed amendments to the scheme involve reducing the overall height of the building which has been achieved through reducing the floor to ceiling heights throughout the building from 2.7m to 2.465m and installing additional plant at roof level. This has resulted in the western most block (the tallest element of the scheme) being reduced in height by 1.9m including the allowance for roof top plant, with the three remaining lower towers reducing in height by 1.3m, also allowing for roof top plant.
- 8.17 Officers consider the proposed amendments to the scheme are acceptable as they result in enhanced entrance/security arrangements for the building, elevations which are of higher architectural quality than the consented scheme and a slightly reduced overall mass.
- 8.18 Considering the above, officers conclude that the amended scheme represents an improvement on the previously consented scheme (APP/E5900/A/12/2173692 (PA/10/01458)) in terms of the design of the scheme, and can therefore be seen to be in accordance with the relevant policies as set out above.

Transportation & Highways

- 8.19 The application proposes to modify the cycle parking provision on site as a result of overall design development.
- 8.20 Policy 6.3 of the London Plan (2016) states that development proposals should ensure that impacts on transport capacity and the transport network, at both a corridor and local level, are fully assessed and that development should not adversely affect safety on the transport network. Policy 6.9 states that developments should provide secure, integrated, convenient and accessible cycle parking facilities in line with the minimum cycle parking standards which are set out in a table which forms a part of policy 6.13.
- 8.21 The Council's Core Strategy policy SP09 (3) seeks to ensure that all new development does not have an adverse impact upon the capacity of the road network.
- 8.22 The Council's Managing Development Document policy DM20 (2) states that development must be able to demonstrate that it is properly integrated with the transport network and has no unacceptable impacts on the capacity and safety of the transport network. Policy DM22 (1 & 4) both state that development will be required to comply with the Council's minimum parking standards in order to ensure suitable provision for cyclists, however it should be noted that these standards have now been superseded by the parking standards set out within the recently adopted London Plan (2016), which this application is being assessed against.
- 8.23 The previously consented scheme (APP/E5900/A/12/2173692 (PA/10/01458)) featured 208 long stay cycle parking spaces within four cycle stores (two in the centre of each block on the northern side of the building), which contained double decker

cycle stands, and no short stay cycle parking spaces. Current London Plan cycle parking standards (which have been updated since then) require a minimum of 1 cycle parking space per 2 beds (long stay provision) and 1 cycle parking space per 40 beds (short stay provision). This therefore means that for this scheme to be compliant 206 long stay cycle parking spaces should be provided and 11 short stay cycle parking space should be provided (a total of 217 spaces). The amended proposal features two larger cycle stores (one in between the two blocks and one within the western block) which house 206 long stay cycle parking spaces once again in the form of double decker cycle stands, as well as 12 short stay cycle parking spaces in the form of Sheffield stands to the front of the site (a total of 218 spaces). Given the above the proposed cycle parking can be considered to be acceptable.

- 8.24 Considering the above, officers conclude that the amended scheme represents an improvement on the previously consented scheme (APP/E5900/A/12/2173692 (PA/10/01458)) in terms of its highways impacts, and can therefore be seen to be in accordance with the relevant policies as set out above.

Amenity

- 8.25 Officers have assessed the amenity implications of the various alterations being made to the previously consented scheme, including the relocation of all ground floor bedrooms above ground floor level, the reduction in north facing bedrooms from 17% to 7%, the introduction of window boxes to the majority of bedrooms and the slight reduction in height of the building.
- 8.26 According to paragraph 17 of the NPPF local planning authorities should always seek to secure a good standard of amenity for all existing and future occupants of land and buildings.
- 8.27 The Council's Core Strategy policy SP10 (4) states that the Council will ensure that all development protects the amenity of surrounding building occupiers.
- 8.28 The Council's Managing Development Document policy DM25 states that development should seek to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants by not creating unacceptable levels of noise, vibration, artificial light, odour, fume or dust pollution during the construction and life of the development.
- 8.29 The proposed alterations to the scheme which include the relocation of all ground floor bedrooms above ground floor level, the reduction in north facing bedrooms from 17% of the total bedrooms to 7%, the introduction of window boxes to the majority of bedrooms and the slight reduction in height of the building is welcome. Officers consider that these amendments will result in an enhanced level of amenity for future occupiers of the site as no bedrooms will now be at ground floor level adjacent to entrances to the building, a significantly fewer number of bedrooms will directly front the Great Eastern main line to the north, and a high proportion of rooms will received enhanced levels of light. The slight reduction in height of the building will also mean that no additional adverse amenity implications for neighbouring residents should be felt, with a possibility of any impacts from the proposal being slightly reduced as a result of these amendments.
- 8.30 Considering the above, officers conclude that the amended scheme does not raise any additional adverse amenity implications for neighbouring residents or building occupiers when considered against the previously consented scheme (APP/E5900/A/12/2173692 (PA/10/01458)), and instead will result in an enhanced

level of amenity for future occupiers of the site, and can therefore be seen to be in accordance with the relevant policies as set out above.

Refuse

- 8.31 The application proposes to modify and slightly reconfigure the proposed bin stores for the scheme.
- 8.32 Policy 5.17 of the London Plan (2016) states that all developments should plan for waste management, and should minimise waste and achieve a high level of performance with respect to reuse and recycling.
- 8.33 The Council's Core Strategy policy SP05 (1) states that the Council will ensure that development implements the waste management hierarchy of reduce, reuse and recycle by ensuring that building users reduce and manage their waste effectively.
- 8.34 The Council's Managing Development Document policy DM14 (2) states that development should demonstrate how it will provide appropriate storage facilities for residual waste and recycling as a component element to implement the waste management hierarchy of reduce, reuse and recycle.
- 8.35 The overall level of refuse storage being provided across the site remains broadly the same as the previously consented scheme (APP/E5900/A/12/2173692 (PA/10/01458)), however the configuration and location of the two refuse stores has been slightly amended as a result of the design development of the scheme. Officers do not consider that the proposed amendments raise any additional issues with respect to refuse provision and will still offer a suitable level of refuse provision for the scheme.
- 8.36 Considering the above, officers conclude that the amended scheme is acceptable in terms of refuse provision, and can therefore be seen to be in accordance with the relevant policies as set out above.

Environmental Considerations

- 8.37 The application proposes to install additional plant on the roof top of all four tower elements of the building.
- 8.38 The Council's Managing Development Document policy DM25(e) seeks to ensure that development does not create unacceptable levels of noise, vibration, artificial light, odour, fume or dust pollution during the construction and life of the development.
- 8.39 The previously consented scheme (APP/E5900/A/12/2173692 (PA/10/01458)) does not make any allowance for plant, however the amended scheme does and proposes to install much of the large heavy weight plant at ground floor level (including a substation, switch room and tank room), with the air handling equipment for the ventilation and cooling of the building will be located at roof level. The proposed roof plant sits within the volume of the consented scheme and is also screened by an acoustic enclosure which has been designed to match the appearance of the building.
- 8.40 Whilst full details of the proposed plant have not been submitted with this application, officers do not object to the principle of these amendments, and further details

relating to the proposed plant will be required to be submitted for approval as required by condition 18.

- 8.41 Considering the above, officers conclude that the amended scheme is acceptable in terms of environmental considerations, and can therefore be seen to be in accordance with the relevant policies as set out above.

Conclusion

- 8.42 The alterations being made as part of this proposal are as a result of design development, due to a new operator taking on the project. Considering that the alterations being made to the scheme are generally minor in nature and are considered to offer improvements to the consented scheme, officers consider that this proposal for a minor material amendment to application APP/E5900/A/12/2173692 (PA/10/01458) should be supported and granted permission subject to the relevant conditions, informatives and S.106 deed of variation as outlined in section 3 of this report.

9.0 HUMAN RIGHTS CONSIDERATIONS

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:

- 9.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-

- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
- Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
- Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".

- 9.3 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.

- 9.4 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.

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

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

10.0 EQUALITIES ACT CONSIDERATIONS

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

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

11.0 FINANCIAL CONSIDERATIONS

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

11.1 Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the relevant authority to grant planning permission on application to it. Section 70(2) requires that the authority shall have regard to:

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

11.2 Section 70(4) defines “local finance consideration” as:

- 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
- Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.

11.3 In this context “grants” might include New Homes Bonus. This is not applicable to this application.

11.4 As regards Community Infrastructure Levy considerations, Members are reminded that that the London mayoral CIL became operational from 1 April 2012 however as the proposal does not result in the creation of a new dwelling or net increase of new floor space the proposal is not liable for Mayoral CIL.

11.5 The Borough's Community Infrastructure Levy came into force from 1st April 2015. Again, the proposal would not be liable for Borough CIL as there is no net increase in the number of dwellings or in new floor space being created.

12.0 CONCLUSION

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

13.0 SITE MAP

