

# Development Committee



## Agenda

**Tuesday, 6 September 2022 6.30 p.m.**

**Council Chamber - Town Hall, Mulberry Place, 5  
Clove Crescent, London, E14 2BG**

The meeting will be broadcast live on the Council's website. A link to the website is here - <https://towerhamlets.public-i.tv/core/portal/home>

### Chair:

Councillor Abdul Wahid

### Vice Chair:

Councillor Kamrul Hussain

### Members:

Councillor Iqbal Hossain, Councillor Suluk Ahmed, Councillor Amina Ali, Councillor James King and Councillor Amy Lee

### Substitute Members:

Councillor Harun Miah, Councillor Amin Rahman, Councillor Maium Talukdar, Councillor Rachel Blake, Councillor Mufeedah Bustin and Councillor Sabina Akhtar

**(The quorum for the Committee is 3)**

The deadline for registering to speak is **4pm Friday, 2 September 2022**

The deadline for submitting information for the update report is Noon  
**Monday, 5 September 2022**

### Contact for further enquiries:

Democratic Services, [joel.west@towerhamlets.gov.uk](mailto:joel.west@towerhamlets.gov.uk) Tel: 020 7364 4207 1st Floor,  
Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG  
<http://www.towerhamlets.gov.uk/committee>



## Meeting Webcast

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<http://towerhamlets.public-i.tv/core/portal/home>

## View Planning application documents here:

[https://www.towerhamlets.gov.uk/lnl/planning\\_and\\_building\\_control/planning\\_applications/planning\\_applications.aspx](https://www.towerhamlets.gov.uk/lnl/planning_and_building_control/planning_applications/planning_applications.aspx)

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### Mobile telephones

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### Meeting access/special requirements.

The Town Hall is accessible to people with special needs. There are accessible toilets, lifts to venues. Disabled parking bays and an induction loop system for people with hearing difficulties are available. For further information, contact the Officers shown on the front of the agenda.



### Fire alarm

If the fire alarm sounds please leave the building immediately by the nearest available fire exit without deviating to collect belongings. Fire wardens will direct you to the exits and to the fire assembly point. If you are unable to use the stairs, a member of staff will direct you to a safe area. The meeting will reconvene if it is safe to do so, otherwise it will stand adjourned.

## Development Committee

Tuesday, 6 September 2022

6.30 p.m.

### APOLOGIES FOR ABSENCE

#### 1. **DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS (Pages 5 - 6)**

Members are reminded to consider the categories of interest in the Code of Conduct for Members to determine whether they have an interest in any agenda item and any action they should take. For further details, please see the attached note from the Monitoring Officer.

Members are reminded to declare the nature of the interest and the agenda item it relates to. Please note that ultimately it's the Members' responsibility to declare any interests form and to update their register of interest form as required by the Code.

If in doubt as to the nature of your interest, you are advised to seek advice prior to the meeting by contacting the Monitoring Officer or Democratic Services

#### 2. **MINUTES OF THE PREVIOUS MEETING(S) (Pages 7 - 10)**

To confirm as a correct record the minutes of the meeting of the Development Committee held on 12<sup>th</sup> July 2022

#### 3. **RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE (Pages 11 - 14)**

To RESOLVE that:

- 1) in the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes is delegated to the Corporate Director Place along the broad lines indicated at the meeting; and
- 2) in the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Corporate Director Place is delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision.
- 3) To note the procedure for hearing objections at meetings of the Development Committee and meeting guidance.



Tower Hamlets Council  
Town Hall  
Mulberry Place  
5 Clove Crescent  
E14 2BG

**4. DEFERRED ITEMS**

There are none.

**5. PLANNING APPLICATIONS FOR DECISION**

15 - 20

**5 .1 60-70 & 100 The Highway and 110 Pennington Street,  
London E1W 2BX (PA/21/02513)**

21 - 130

**St  
Katharine's  
& Wapping**

Proposal:

Demolition of the existing buildings. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexi office/ workspace accommodation (Use Class E). Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/ business/ service units (Use Class E) and nightclub/ photography and filming studio venue (Sui Generis). Ancillary works comprising vehicular access, service yard, parking, refuse store, landscaping and associated works

Recommendation:

Grant planning permission subject to conditions and planning obligations

**6. OTHER PLANNING MATTERS**

There were none.

**Next Meeting of the Development Committee**

Tuesday, 4 October 2022 at 6.30 p.m.



# Agenda Item 1

## **DECLARATIONS OF INTERESTS AT MEETINGS– NOTE FROM THE MONITORING OFFICER**

This note is for guidance only. For further details please consult the Code of Conduct for Members at Part C, Section 31 of the Council's Constitution

### **(i) Disclosable Pecuniary Interests (DPI)**

You have a DPI in any item of business on the agenda where it relates to the categories listed in **Appendix A** to this guidance. Please note that a DPI includes: (i) Your own relevant interests; (ii) Those of your spouse or civil partner; (iii) A person with whom the Member is living as husband/wife/civil partners. Other individuals, e.g. Children, siblings and flatmates do not need to be considered. Failure to disclose or register a DPI (within 28 days) is a criminal offence.

Members with a DPI, (unless granted a dispensation) must not seek to improperly influence the decision, must declare the nature of the interest and leave the meeting room (including the public gallery) during the consideration and decision on the item – unless exercising their right to address the Committee.

**DPI Dispensations and Sensitive Interests.** In certain circumstances, Members may make a request to the Monitoring Officer for a dispensation or for an interest to be treated as sensitive.

### **(ii) Non - DPI Interests that the Council has decided should be registered – (Non - DPIs)**

You will have 'Non DPI Interest' in any item on the agenda, where it relates to (i) the offer of gifts or hospitality, (with an estimated value of at least £25) (ii) Council Appointments or nominations to bodies (iii) Membership of any body exercising a function of a public nature, a charitable purpose or aimed at influencing public opinion.

Members must declare the nature of the interest, but may stay in the meeting room and participate in the consideration of the matter and vote on it **unless:**

- A reasonable person would think that your interest is so significant that it would be likely to impair your judgement of the public interest. **If so, you must withdraw and take no part in the consideration or discussion of the matter.**

### **(iii) Declarations of Interests not included in the Register of Members' Interest.**

Occasions may arise where a matter under consideration would, or would be likely to, **affect the wellbeing of you, your family, or close associate(s) more than it would anyone else living in the local area** but which is not required to be included in the Register of Members' Interests. In such matters, Members must consider the information set out in paragraph (ii) above regarding Non DPI - interests and apply the test, set out in this paragraph.

### **Guidance on Predetermination and Bias**

Member's attention is drawn to the guidance on predetermination and bias, particularly the need to consider the merits of the case with an open mind, as set out in the Planning and Licensing Codes of Conduct, (Part C, Section 34 and 35 of the Constitution). For further advice on the possibility of bias or predetermination, you are advised to seek advice prior to the meeting.

**Section 106 of the Local Government Finance Act, 1992 - Declarations which restrict Members in Council Tax arrears, for at least a two months from voting**

In such circumstances the member may not vote on any reports and motions with respect to the matter.

**Further Advice** contact: Janet Fasan, Divisional Director Legal and Monitoring Officer Tel: 0207 364 4800.

## **APPENDIX A: Definition of a Disclosable Pecuniary Interest**

(Relevant Authorities (Disclosable Pecuniary Interests) Regulations 2012, Reg 2 and Schedule)

Subject	Prescribed description
Employment, office, trade, profession or vacation	Any employment, office, trade, profession or vocation carried on for profit or gain.
Sponsorship	Any payment or provision of any other financial benefit (other than from the relevant authority) made or provided within the relevant period in respect of any expenses incurred by the Member in carrying out duties as a member, or towards the election expenses of the Member. This includes any payment or financial benefit from a trade union within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992.
Contracts	Any contract which is made between the relevant person (or a body in which the relevant person has a beneficial interest) and the relevant authority— (a) under which goods or services are to be provided or works are to be executed; and (b) which has not been fully discharged.
Land	Any beneficial interest in land which is within the area of the relevant authority.
Licences	Any licence (alone or jointly with others) to occupy land in the area of the relevant authority for a month or longer.
Corporate tenancies	Any tenancy where (to the Member's knowledge)— (a) the landlord is the relevant authority; and (b) the tenant is a body in which the relevant person has a beneficial interest.
Securities	Any beneficial interest in securities of a body where— (a) that body (to the Member's knowledge) has a place of business or land in the area of the relevant authority; and (b) either—  (i) the total nominal value of the securities exceeds £25,000 or one hundredth of the total issued share capital of that body; or  (ii) if the share capital of that body is of more than one class, the total nominal value of the shares of any one class in which the relevant person has a beneficial interest exceeds one hundredth of the total issued share capital of that class.

## LONDON BOROUGH OF TOWER HAMLETS

### MINUTES OF THE DEVELOPMENT COMMITTEE

HELD AT 6.30 P.M. ON WEDNESDAY, 10 AUGUST 2022

COUNCIL CHAMBER - TOWN HALL, MULBERRY PLACE, 5 CLOVE CRESCENT,  
LONDON, E14 2BG

#### Members Present:

Councillor Abdul Wahid (Chair)  
Councillor Kamrul Hussain (Vice-Chair)  
Councillor Iqbal Hossain  
Councillor Suluk Ahmed  
Councillor James King

#### Officers Present:

Jerry Bell	– (Area Planning Manager (East), Planning Services, Place)
Katie Cooke	– (Planning Officer, Place)
Diane Phillips	– (Lawyer, Legal Services)
Zoe Folley	– (Democratic Services Officer, Committees, Chief Executive's Office)

#### Apologies:

Councillor Amina Ali  
Councillor Amy Lee

#### 1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS AND OTHER INTERESTS

Councillor Abdul Wahid declared a Non Disclosable Pecuniary Interest in agenda item 5.1, 42-44 Thomas Road, London, E14 7BJ (PA.21.02729). This was on the basis that he had visited the site.

#### 2. MINUTES OF THE PREVIOUS MEETING(S)

The Committee **RESOLVED**

1. That the unrestricted minutes of the meeting of the Committee held on 12<sup>th</sup> July 2022 be agreed as a correct record and signed by the Chair.

### 3. **RECOMMENDATIONS AND PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE**

The Committee **RESOLVED** that:

1. The procedure for hearing objections and meeting guidance be noted.
2. In the event of changes being made to recommendations by the Committee, the task of formalising the wording of those changes be delegated to the Corporate Director, Place along the broad lines indicated at the meeting; and
3. In the event of any changes being needed to the wording of the Committee's decision (such as to delete, vary or add conditions/informatives/planning obligations or reasons for approval/refusal) prior to the decision being issued, the Corporate Director, Place be delegated authority to do so, provided always that the Corporate Director does not exceed the substantive nature of the Committee's decision

### 4. **DEFERRED ITEMS**

There were none

### 5. **PLANNING APPLICATIONS FOR DECISION**

#### 5.1 **42-44 Thomas Road, London, E14 7BJ (PA.21.02729)**

Update report published.

Jerry Bell introduced the application for the installation of gates and highlighted the contents of the update report

Kate Cooke presented the report advising of the following:

- The site and surrounds. The site was located in the Limehouse Cut Conservation Area
- Overview of the approved permission, for the wider development, including the s106 agreement, requiring the retention of the public open space, and submission of secure by design measures (condition 18)
- Key features of the proposed gates.
- Outcome of the statutory consultation. 53 representations were received in support and 1 in objection.
- The consultee responses. The Secure by Design Officer has noted the lack of compliance with the secure by design condition. This is being investigated. Whilst they considered that the installation of the gates would provide some deterrent, they had also expressed concerns about design features and wished to see further changes.]
- No objection to the design of the gates themselves however heritage concerns were had. By locating gates at the eastern and western ends,



access through the site and to the canal to the south would be restricted, in turn failing to provide a positive relationship between the existing building and the Cut. Given that the canal is considered an important part of the conservation area, which provides an area of open space, restricting access would not preserve or enhance the conservation area, and would fail to comply with policy.

- The access concerns. That proposal gates would restrict access to the Limehouse Cut Canal and access to water space, Limehouse Cut. Therefore, the proposal was contrary to policy as set out in the Committee report.
- The crime statistics. Officers noted a break down of reported crime in June 2022 for the Mile End ward, as detailed in the report. The results show that they were comparable to London as a whole. The site also fell outside of the crime hot spot areas. Overall, based on the level of recorded offences, officers did not consider that this site is of a particular high-risk area that would justify a departure from policy to allow the provision of the gates. Officers considered that in the long term the installation of gates would displace crime and they would encourage the applicant to look at other security measures.

Officers were recommending that the application was refused permission.

The Chair invited the registered speakers to address the Committee. David Hill, and Dr Andres L Mikkelsen, local residents, address the committee in support of the proposal highlighting the following points:

- Drug dealing and ASB was commonplace on land at the site.
- Given it's secluded nature, parts of the land are more commonly used for criminal activity, than public use.
- There had been a huge increase in crime since this site was opened, based on annual crime figures. The monthly crime figures underestimated the level of crime.
- There were other developments that had gates.

The Committee then asked questions of the Officers and the registered speakers around the following points:

- Precedence set by other developments in terms of installation of gates. It was noted that the Council assessed each case on it's merits and take a consistent approach in accordance with policy. In this case, it was seen as important to secure the public access to water space and the public right of way, in accordance with the s106 agreement for the wider proposal. If approved, the applicant would need to seek authority to vary this.
- Security issues. The supporters considered that other pathways in the area were also not accessible to the public. Therefore, the benefits of the proposal, in terms of increased security would outweigh the issues around access - given the existing restrictions. They also commented that they had taken a range of steps to attempt to prevent incidences which were noted, including installing CCTV, and that there had

recently been break-ins. The measures had done little to prevent problems. It was felt that the installation of gates would make the develop more secure and was a low cost solution.

- Crime statistics including the incidences of ASB. Officers confirmed that they had taken the statistics from the Metropolitan police website.
- The conflict with policy. Officers explained in further detail which polices the proposals breached.
- In summary the Committee felt that the installation of the gates was not the solution and other options to improve security should be explored. It was also considered that that it was important to preserve access to the canal and that more evidence would need to be presented to demonstrate that crime levels justify such measures. There were also concerns that this proposal could set a precedence.

On a unanimous vote the Committee **RESOLVED**:

That subject to any direction by the Mayor of London, conditional planning permission is **REFUSED** for the erection of three sets of gates to the existing building for the following reasons, as set out in the Committee Update report.

1. The proposed pedestrian access gates would restrict movement on a publically accessible space and would not promote socially inclusive and cohesive neighbourhood which is contrary to Policy D.DH2 of the Tower Hamlets Local Plan (2020 and Policies D3 and D5 of the London Plan (2021).
2. The proposed pedestrian access gates would restrict public access to water space, in the form of the Limehouse Cut, which is contrary to Policies S.OWS2 and D.OWS4 of the Tower Hamlets Local Plan (2020) and policy SI16 of the London Plan (2021).
3. The proposed pedestrian access gate would act to restrict access to the Limehouse Cut, which is a key open space within the Limehouse Cut Conservation Area, and hence would not preserve or enhance the character of the conservation area. Therefore, the proposal is contrary to Policy S.DH3 of the Tower Hamlets Local Plan (2020).

## 6. OTHER PLANNING MATTERS

None

The meeting ended at 7.30 p.m.

Chair, Councillor Abdul Wahid  
Development Committee



## DEVELOPMENT COMMITTEE

Report of the Corporate Director of Place

Classification: Unrestricted

### **Guidance for Development Committee/Strategic Development Committee Meetings.**

#### **Who can speak at Committee meetings?**

Members of the public and Councillors may request to speak on applications for decision (Part 6 of the agenda). All requests must be sent direct to the Committee Officer shown on the front of the agenda by the deadline – 4pm one clear working day before the meeting. Requests should be sent in writing (e-mail) or by telephone detailing the name and contact details of the speaker and whether they wish to speak in support or against. Requests cannot be accepted before agenda publication. Speaking is not normally allowed on deferred items or applications which are not for decision by the Committee.

The following may register to speak per application in accordance with the above rules:

Up to two objectors on a first come first served basis.	For up to three minutes each.
Committee/Non Committee Members.	For up to three minutes each - in support or against.
Applicant/ supporters.  This includes: an agent or spokesperson.  Members of the public in support	Shall be entitled to an equal time to that given to any objector/s. For example: <ul style="list-style-type: none"><li>• Three minutes for one objector speaking.</li><li>• Six minutes for two objectors speaking.</li><li>• Additional three minutes for any Committee and non Committee Councillor speaking in objection.</li></ul> It shall be at the discretion of the applicant to allocate these supporting time slots.

#### **What if no objectors register to speak against an applicant for decision?**

The applicant or their supporter(s) will not be expected to address the Committee should no objectors register to speak and where Officers are recommending approval. However, where Officers are recommending refusal of the application and there are no objectors or members registered, the applicant or their supporter(s) may address the Committee for 3 minutes.

The Chair may vary the speaking rules and the order of speaking in the interest of natural justice or in exceptional circumstances.

Committee Members may ask points of clarification of speakers following their speech. Apart from this, speakers will not normally participate any further. Speakers are asked to arrive at the start of the meeting in case the order of business is changed by the Chair. If speakers are not present by the time their application is heard, the Committee may consider the item in their absence.

This guidance is a précis of the full speaking rules that can be found on the Committee and Member Services webpage: [www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee) under [Council Constitution, Part C Section 35](#) Planning Code of Conduct

### **What can be circulated?**

Should you wish to submit a representation or petition, please contact the planning officer whose name appears on the front of the report in respect of the agenda item. Any representations or petitions should be submitted no later than noon the working day before the committee meeting for summary in the update report that is tabled at the committee meeting. No written material (including photos) may be circulated at the Committee meeting itself by members of the public including public speakers.

### **How will the applications be considered?**

The Committee will normally consider the items in agenda order subject to the Chair's discretion. The procedure for considering applications for decision shall be as follows:  
Note: there is normally no further public speaking on deferred items or other planning matters



- (1) Officers will introduce the item with a brief description.
- (2) Officers will present the report supported by a presentation.
- (3) Any objections that have registered to speak to address the Committee
- (4) The applicant and or any supporters that have registered to speak to address the Committee
- (5) Committee and non- Committee Member(s) that have registered to speak to address the Committee
- (6) The Committee may ask points of clarification of each speaker.
- (7) The Committee will consider the item (questions and debate).
- (8) The Committee will reach a decision.

Should the Committee be minded to make a decision contrary to the Officer recommendation and the Development Plan, the item will normally be deferred to a future meeting with a further Officer report detailing the implications for consideration.

### **How can I find out about a decision?**

You can contact Democratic Services the day after the meeting to find out the decisions. The decisions will also be available on the Council's website shortly after the meeting.

For queries on reports please contact the Officer named on the front of the report.

<b>Deadlines.</b> To view the schedule of deadlines for meetings (including those for agenda papers and speaking at meetings) visit the agenda management timetable, part of the Committees web pages. Visit <a href="http://www.towerhamlets.gov.uk/committee">www.towerhamlets.gov.uk/committee</a> - search for relevant Committee, then 'browse meetings and agendas' then 'agenda management timetable'.	 Scan this code to view the Committee webpages.
<b>The Rules of Procedures for the Committee are as follows:</b> <ul style="list-style-type: none"><li>• Development Committee Procedural Rules – Part C of the Council's Constitution Section 35 Appendix B.</li><li>• Terms of Reference for the Development Committee - Part B of the Council's Constitution Section 19 (7).</li></ul>	 Council's Constitution

## **Public Information – Accessing and Participating in the Meeting**

The meeting will be held at the Council's Town Hall combining 'in person attendance (Committee Members and certain Officers) with the option of remote attendance through a Microsoft Teams meeting. The ways of speaking at the meeting are set out below, including the option of in person attendance, and if not possible, contributing by alternative ways.

This meeting is open to the public. The seating available in the public gallery is allocated on a first come first served bases. You are advised to contact the Democratic Services Officer to reserve a place at the meeting. You may watch the meeting live via our Webcasting portal <https://towerhamlets.public-i.tv/core/portal/home>. The meeting will also be available for viewing after the meeting.

The following guidance provides details about the operation of the Committee Meetings under the current restrictions.

### **How can I register to speak and address the Committee?**

Members of the public and Councillors may address the meeting in accordance with the Development Committee Procedure Rules. (Details of the process are set out on the next page).

Should you wish to address the Committee, please contact the Democratic Services Officer, shown on the front page, to register to speak by the deadline. You may address the meeting in person at the committee meeting. If you are not able to do so, you may contribute by remote means through the Microsoft Teams meeting element– by the video link or by dialling in. Should you require assistance with this, please contact the Democratic Services Officer, who can help you join the meeting, including providing advice on the etiquette for addressing via virtual means.

You may also wish to consider whether you could be represented by a Ward Councillor or another spokesperson. You may also submit a written representation for summary in the Committee update report to be submitted 12noon the date before the meeting.

### **Procedure at the Committee meeting.**

The Chair will formally open the meeting and will introduce themselves and the participants, including the Committee Members and Officers present in person and the attendees present by virtual means.

The standard format for considering each planning application shall be as follows, however the Chair may vary the order for hearing the application in specific circumstances.

- Officers will introduce the item with a brief description, and mention any update report that has been published.
- Officers will present the application supported by a presentation
- Any objectors that have registered to speak to address the Committee, either in person or by virtual means.
- The applicant or any supporters that have registered to speak to address the Committee, either in person or by virtual means.

- Committee and Non Committee Members that have registered to speak to address the Committee.
- The Committee may ask points of clarification of each speaker.
- The Committee will consider the item (Questions and Debate)
- Voting. At the end of the item, the Chair will ask the Committee to vote on the item.
- The Lead Planning Officer will confirm the results to the Chair.

### **Electronic copies of the agenda papers, including the update report and planning files**

To access the documents, click [www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee) and search for the relevant committee and meeting date. Copies of the Committee agenda are published at least five working days before the meeting. A Committee update report is normally also published the day of the meeting.

A link to the electronic planning file can be found on the top of the Committee report. Should you require any further information or assistance with accessing the files, you are advised to contact the Planning Case Officer.

For Further Information, contact the Democratic Services Officer shown on the agenda front sheet.



## DEVELOPMENT COMMITTEE

Report of the Corporate Director of Place

Classification: Unrestricted

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### Advice on Planning Applications for Decision

#### 1. INTRODUCTION

- 1.1 In this part of the agenda are reports on planning applications for determination by the Committee. Although the reports are ordered by application number, the Chair may reorder the agenda on the night. If you wish to be present for a particular application you need to be at the meeting from the beginning.
- 1.2 The following information and advice applies to all those reports.

#### 2. FURTHER INFORMATION

- 2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda can be made available for inspection at the meeting.
- 2.2 Members are informed that any further letters of representation, petitions or other matters received since the publication of this part of the agenda, concerning items on it, will be reported to the Committee in an Addendum Update Report.

#### 2.3 ADVICE OF CORPORATE DIRECTOR, GOVERNANCE

- 3.1 This is general advice to the Committee which will be supplemented by specific advice at the meeting as appropriate. The Committee is required to determine planning applications in accordance with the Development Plan and other material planning considerations. Virtually all planning decisions involve some kind of balancing exercise and the law sets out how this balancing exercise is to be undertaken. After conducting the balancing exercise, the Committee is able to make a decision within the spectrum allowed by the law. The decision as to whether to grant or refuse planning permission is governed by section 70(2) of the Town and Country Planning Act 1990 (TCPA 1990). This section requires the Committee to 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
- to any other material considerations.

- 3.2 What does it mean that Members must have regard to the Development Plan? Section 38(6) of the Planning and Compulsory Purchase Act 2004 explains that having regard to the Development Plan means deciding in accordance with the Development Plan, unless material considerations indicate otherwise. If the Development Plan is up to date and contains material policies (policies relevant to the application) and there are no other material considerations, the application should be determined in accordance with the Development Plan.

#### The Local Development Plan and Other Material Considerations

- 3.3 The relevant Development Plan policies against which the Committee is required to consider each planning application are to be found in:
  - The London Plan 2016;

- The Tower Hamlets Core Strategy Development Plan Document 2025 adopted in 2010; and
- The Managing Development Document adopted in 2013.

- 3.4 The Planning Officer's report for each application directs Members to those parts of the Development Plan which are material to each planning application, and to other material considerations. National Policy as set out in the National Planning Policy Framework 2019 (**NPPF**) and the Government's online Planning Practice Guidance (PPG) are both material considerations.
- 3.5 One such consideration is emerging planning policy such as the Council's Local Plan<sup>1</sup> and the Mayor of London's New London Plan<sup>2</sup>. The degree of weight which may be attached to emerging policies (unless material considerations indicate otherwise) depends on the stage of preparation of the emerging Development Plan, the extent to which there are unresolved objections to the relevant policies, and the degree of consistency of the relevant policies in the draft plan to the policies in the framework. As emerging planning policy progresses through formal stages prior to adoption, it accrues weight for the purposes of determining planning applications (NPPF, paragraph 48).
- 3.6 Having reached an advanced stage in the preparation process, the Local Plan now carries more weight as a material consideration in the determination of planning applications. However, the policies will not carry full weight until the Local Plan has been formally adopted. The New London Plan is at a less advanced stage of the adoption process.
- 3.7 The purpose of a Planning Officer's report is not to decide the issue for the Committee, but to inform Members of the considerations relevant to their decision making and to give advice on and recommend what decision Members may wish to take. Part of a Planning Officer's expert function in reporting to the Committee is to make an assessment of how much information to include in the report. Applicants and objectors may also want to direct Members to other provisions of the Development Plan (or other material considerations) which they believe to be material to the application.
- 3.8 The purpose of Planning Officer's report is to summarise and analyse those representations, to report them fairly and accurately and to advise Members what weight (in their professional opinion) to give those representations.
- 3.9 Ultimately it is for Members to decide whether the application is in accordance with the Development Plan and if there are any other material considerations which need to be considered.

### **Local Finance Considerations**

- 3.10 Section 70(2) of the TCPA 1990 provides that a local planning authority shall have regard to a local finance consideration as far as it is material in dealing with the application. Section 70(4) of the TCPA 1990 defines a local finance consideration and both New Homes Bonus payments (**NHB**) and Community Infrastructure Levy (**CIL**) fall within this definition.

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<sup>1</sup> The Tower Hamlets Local Plan 2031: Managing Growth and Sharing the Benefits' was submitted to the Secretary of state for Housing, Communities and Local Government to undergo an examination in public on 28 February 2018. As part of the examination process, the planning inspector held a series of hearing sessions from 6 September to 11 October 2018 to discuss the soundness of the Local Plan. The planning inspector has put forward a series of modifications as part of the examination process in order to make it sound and legally compliant. These modifications are out to consultation for a 6 week period from 25 March 2019.

<sup>2</sup> The draft New London Plan was published for public consultation in December 2017, The examination in public commenced on 15 January 2019 and is scheduled until mid to late May 2019.



- 3.11 Although NHB and CIL both qualify as *“local finance considerations*, the key question is whether they are "material" to the specific planning application under consideration.
- 3.12 The prevailing view is that in some cases CIL and NHB can lawfully be taken into account as a material consideration where there is a direct connection between the intended use of the CIL or NHB and the proposed development. However to be a ‘material consideration’, it must relate to the planning merits of the development in question.
- 3.13 Accordingly, NHB or CIL money will be 'material' to the planning application, when reinvested in the local areas in which the developments generating the money are to be located, or when used for specific projects or infrastructure items which are likely to affect the operation or impact on the development. Specific legal advice will be given during the consideration of each application as required.

### **Listed Buildings and Conservation Areas**

- 3.14 Under Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant listed building consent for any works, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 3.15 Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects a listed buildings or its setting, the local planning authority must have special regard to the desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.
- 3.16 Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development in a conservation area, the local planning authority must pay special attention to the desirability of preserving or enhancing the character or appearance of the conservation area.

### **Trees and Natural Environment**

- 3.17 Under Section 197 of the TCPA 1990, in considering whether to grant planning permission for any development, the local planning authority must ensure, whenever it is appropriate, that adequate provision is made, by the imposition of conditions, for the preservation or planting of trees.
- 3.18 Under Section 40 of the Natural Environment and Rural Communities Act 2006 (Duty to conserve biodiversity), the local authority *“must, in exercising its functions, have regard, so far as is consistent with the proper exercise of those functions, to the purpose of conserving biodiversity”*.

### **Crime and Disorder**

- 3.19 Under Section 17 of the Crime and Disorder Act (1998) (Duty to consider crime and disorder implications), the local authority has a *“duty .....to exercise its various functions with due regard to the likely effect of the exercise of those functions on, and the need to do all that it reasonably can to prevent, crime and disorder in its area (including anti-social and other behaviour adversely affecting the local environment)...”*

### **Transport Strategy**

- 3.20 Section 144 of the Greater London Authority Act 1999, requires local planning authorities to have regard to the London Mayor’s Transport strategy.

## **Equalities and Human Rights**

- 3.21 Section 149 of the Equality Act 2010 (Public Sector Equality Duty) (**Equality Act**) provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Equality Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.22 The protected characteristics set out in Section 4 of the Equality Act are: age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Equality Act.
- 3.23 The Human Rights Act 1998, sets out the basic rights of every person together with the limitations placed on these rights in the public interest. 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. Members need to satisfy themselves that the potential adverse amenity impacts are acceptable and that any potential interference with Article 8 rights will be legitimate and justified. 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. Members 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.

## **Environmental Impact Assessment**

- 3.24 The process of Environmental Impact Assessment is governed by the Town and Country Planning (Environmental Impact Assessment) Regulations 2017 (2017 Regulations). Subject to certain transitional arrangements set out in regulation 76 of the 2017 Regulations, the 2017 regulations revoke the Town and Country Planning (Environmental Impact Assessment) Regulations 2011 (2011 Regulations).
- 3.25 The aim of Environmental Impact Assessment is to protect the environment by ensuring that a local planning authority when deciding whether to grant planning permission for a project, which is likely to have significant effects on the environment, does so in the full knowledge of the likely significant effects, and takes this into account in the decision making process. The 2017 Regulations set out a procedure for identifying those projects which should be subject to an Environmental Impact Assessment, and for assessing, consulting and coming to a decision on those projects which are likely to have significant environmental effects.
- 3.26 The Environmental Statement, together with any other information which is relevant to the decision, and any comments and representations made on it, must be taken into account by the local planning authority in deciding whether or not to grant consent for the development.

## **Third Party Representations**

- 3.27 Under section 71(2)(a) of the TCPA 1990 and article 33(1) of the Town and Country Planning (Development Management Procedure) (England) Order 2015, the Committee is required, to

take into account any representations made within specified time limits. The Planning Officer report directs Members to those representations and provides a summary. In some cases, those who have made representations will have the opportunity to address the Committee at the meeting.

### **Daylight, Sunlight and Overshadowing**

- 3.28 Amenity impacts resulting from loss of daylight and sunlight or an increase in overshadowing are a common material planning consideration. Guidance on assessment of daylight and sunlight is provided by the 'Site Layout Planning for Daylight and Sunlight' 2011 by BRE (the BRE Guide). The BRE Guide is purely advisory and an appropriate degree of flexibility needs to be applied when using the BRE Guide. The BRE Guide does not form part of the Development Plan and compliance is not a statutory requirement.
- 3.29 There are two methods of assessment of impact on daylighting: the vertical sky component (VSC) and no sky line (NSL). The BRE Guide specifies that both the amount of daylight (VSC) and its distribution (NSL) are important. According to the BRE Guide, reductions in daylighting would be noticeable to occupiers when, as a result of development:
- a) The VSC measured at the centre of an existing main window is less than 27%, and less than 0.8 times its former value; or
  - b) The area of the working plane in a room which can receive direct skylight is reduced to less than 0.8 times its former value.
- 3.30 The BRE Guide states that sunlight availability would be adversely affected if the centre of a window receives less than 25% of annual probable sunlight hours or less than 5% of probably sunlight hours between 21 September and 21 March and receives less than 0.8 times its former sunlight hours during either period and has a reduction in sunlight over the whole year of over 4%.
- 3.31 For overshadowing, the BRE Guide recommends that at least 50% of the area of each amenity space should receive at least two hours of sunlight on 21st March with ratio of 0.8 times the former value being noticeably adverse.
- 3.32 Specific legal advice will be given in relation to each application as required.

### **General comments**

- 3.33 Members are reminded that other areas of legislation cover aspects of building and construction and therefore do not need to be considered as part of determining a planning application. Specific legal advice will be given should any of that legislation be raised in discussion.
- 3.34 The Committee has several choices when considering each planning application:
- To grant planning permission unconditionally;
  - To grant planning permission with conditions;
  - To refuse planning permission; or
  - To defer the decision for more information (including a site visit).

## **4. PUBLIC SPEAKING**

- 4.1 The Council's constitution allows for public speaking on these items in accordance with the rules set out in the constitution and the Committee's procedures. These are set out at the Agenda Item: Recommendations and Procedure for Hearing Objections and Meeting Guidance.

## **5. RECOMMENDATION**

- 5.1 The Committee to take any decisions recommended in the attached reports.



## DEVELOPMENT COMMITTEE

6th September  
2022

Report of the Corporate Director of Place

Classification: Unrestricted

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### Application for Planning Permission

<b>Reference</b>	PA/21/02513
<b>Site</b>	60-70 & 100 The Highway and 110 Pennington Street, London E1W 2BX
<b>Ward</b>	St Katharine's and Wapping
<b>Proposal</b>	Demolition of the existing buildings. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexi office/ workspace accommodation (Use Class E). Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/ business/ service units (Use Class E) and nightclub/ photography and filming studio venue (Sui Generis). Ancillary works comprising vehicular access, service yard, parking, refuse store, landscaping and associated works
<b>Summary Recommendation</b>	Grant planning permission subject to conditions and planning obligations
<b>Applicant</b>	Big Yellow Self Storage Company Limited
<b>Agent/ architect</b>	DWD/ Mountford Pigott
<b>Case Officer</b>	Rikki Weir
<b>Key dates</b>	<ul style="list-style-type: none"><li>- Application registered as valid on 13/12/2021</li><li>- Consultation on 21/12/2021</li></ul>

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### EXECUTIVE SUMMARY

The application site is located within the Mayor of London's City Fringe Opportunity Area, where development proposals are expected to optimise the delivery of housing and employment numbers. The overall development would deliver 114 homes with a policy compliant 38% affordable housing (40 affordable homes) provision, with a policy compliant 72%/ 28% affordable rented/ intermediate tenure split and policy compliant 12 accessible dwellings being provided.

The proposal would deliver a significant uplift in employment floor space on the site with 7,778sqm of self-storage (B8 use class) floor space, 1,418sqm flexible office/workspace (E(g) use class) and 625sqm flexible commercial space (E(a, c, d, e, f, g) use class), including 920sqm of policy compliant affordable workspace and a range of spaces suitable for the use

of Small and Medium Enterprises (SMEs). The existing site consists of approximately 7,663sqm of employment floorspace as defined by the Local Plan.

The existing site includes an established nightclub of London-wide cultural significance which attracts popular and international DJs and music. The venue hosts a proportion of club nights which are popular with the LGBTQ+ community (approximately 2-3 out of 8-9 nights per month). The space operates as a photography and filming venue during the day. The proposal would involve the replacement of the existing nightclub/ photography and filming venue (Sui Generis use class). The protection, maintenance and enhancement of this cultural, creative and community facility is supported by the Development Plan. The replacement nightclub provision has been supported by the Mayor of London's office which was consulted as part of the Greater London Authority (GLA) Stage 1 process for referable planning applications and the GLA's Culture and Community Spaces at Risk team.

In line with the Equality Act (2010), an Equality Impact Assessment (EqIA) has been undertaken by officers (Appendix 4) and its results should be considered by members accordingly in conjunction with the decision-making process.

The design, height building massing and architectural appearance would respond positively to the existing and emerging local context. The development would preserve the character and appearance of the St George in the East Conservation Area, as well as preserving the significance derived from setting and features of special architectural or historic interest of nearby listed buildings, principally St George in the East Church (Grade I), Tobacco Dock (Grade I) and Pennington Street Warehouses (Grade II).

The replacement nightclub would be subject to a range of measures to control the impact of noise and disturbance on existing and proposed residential properties. A noise management plan and nightclub transport management plan would be secured by condition whereas the existing venue does not have such controls. There would also be space for smoking and part of the queuing to take place within the site whereas the existing venue uses the public footway.

Extensive acoustic and vibration mitigation measures have been designed into the construction of the building, along with soundproofing of new homes and appropriate glazing so that units on Pennington Street would not be unduly impacted.

The proposal would result in some daylight and sunlight impacts upon neighbouring residents; however, these are not excessive and the scale and massing of the built form has been designed carefully to minimise such impacts. The development would not give rise to any undue privacy, outlook or sense of enclosure concerns to neighbours.

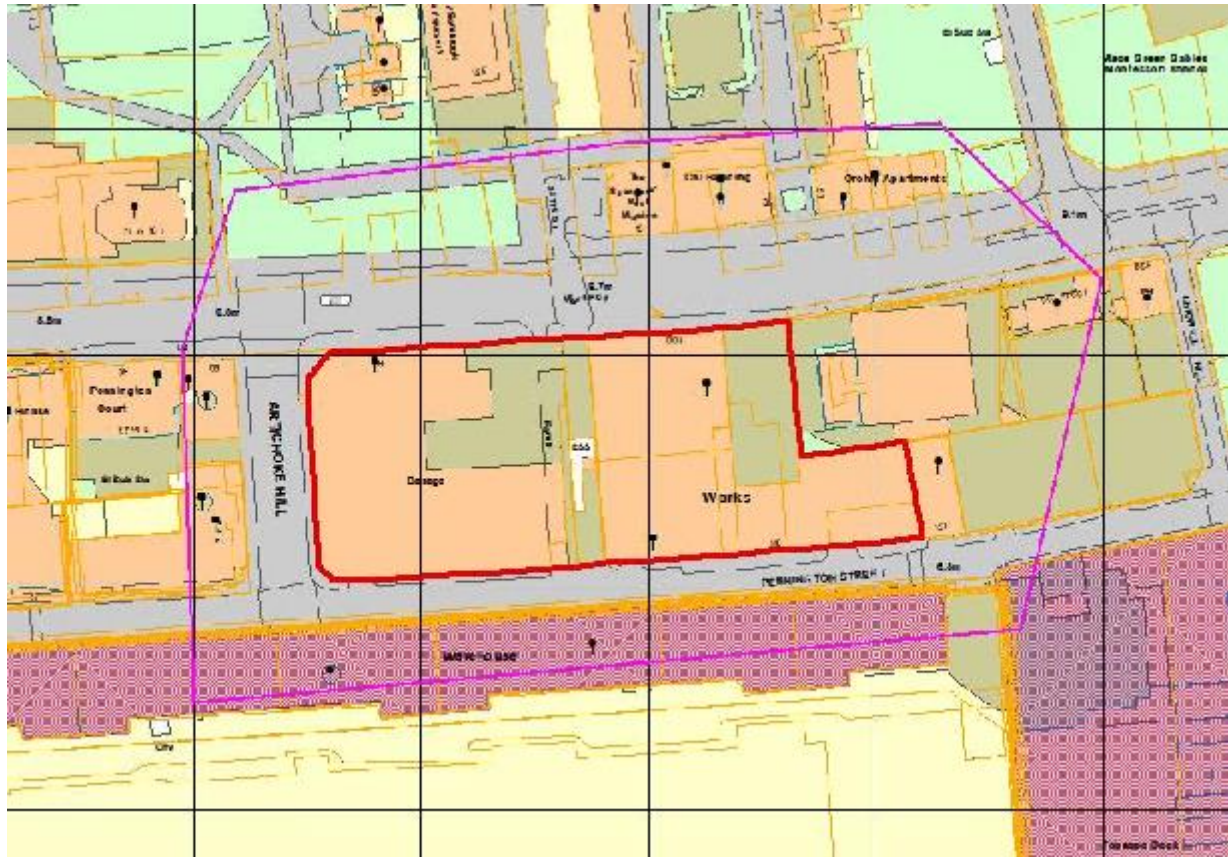
The proposed development would be a 'car-free' residential scheme, only allowing disabled persons residential car parking (6 spaces); it would include policy compliant residential and commercial cycle parking spaces, as well as commercial car parking (16 car spaces and 2 van spaces) in accordance with the Development Plan. The proposal would also include a new north-south pedestrian route from The Highway to Pennington Street.

The energy strategy would sufficiently reduce carbon dioxide emissions and an additional carbon offsetting payment would be secured in the planning obligations. The proposal would involve gains in biodiversity through additional trees, soft landscaping and biodiverse roofs, resulting in a development with an Urban Greening Factor of 0.4, providing an acceptable quality and quantum of greening in and around the site. Officers are satisfied that any potential impacts that may arise from the construction or operation of the development can be sufficiently controlled and mitigated through the various recommended planning conditions and obligations.

The development would be liable for both the Mayor of London's and Tower Hamlets Community Infrastructure Levy. In addition, the development would provide a necessary and reasonable planning obligations to local employment and training and carbon offsetting. Heads of Terms have been agreed and the officer's recommendation is subject to a Section 106 legal agreement containing a number of financial and non-financial contributions that would provide further benefit to the community including an improved pedestrian crossing across The Highway.

The application is in general conformity with the Development Plan and taking account of all other material considerations, officers recommend the proposed development be granted planning permission, subject to conditions, planning obligations (secured in a Section 106 legal agreement), and any direction by the Mayor of London at Stage 2 consultation.

## SITE PLAN



- Planning Application Site Boundary
- Other Planning Applications
- Consultation Area
- Land Parcel Address Point
- Locally Listed Buildings
- Statutory Listed Buildings

### Planning Applications Site Map PA/22/02513

This site map displays the Planning Application Site Boundary and the extent of the area within which neighbouring occupiers / owners were consulted as part of the Planning Application Process



**TOWER HAMLETS**  
London  
Borough of  
Tower Hamlets

Date: 26 August 2022

## 1. SITE AND SURROUNDINGS



- 1.1 The site (shown in Figure 1) is approximately 5,900 sqm (0.59 hectares) bounded by the busy, arterial route The Highway (A1203) to the north, Pennington Street to the south, and Artichoke Hill to the west. The immediate environment surrounding the site is characterised by a mix of residential and commercial uses. To the north of the site, on the other side of The Highway, is Strangers Rest Mission Evangelical Church and an area of open space, with residential flats and a children's nursery set further back. To the west of the site, located on the west side of Artichoke Hill is a residential block of flats up to eight storeys in height that sits on the corner of Artichoke Hill and Pennington Street. On The Highway/ Artichoke Hill corner is a building of up to three storeys with a Domino's pizza takeaway at ground floor and residential uses at upper floors.
- 1.2 Immediately abutting the east of the site is a BP service station and McDonalds drive-thru restaurant (which has recently been granted consent for residential led development under planning reference PA/19/00559).
- 1.3 To the south of the site is Pennington Street Warehouses, a grade II listed warehouse of brick construction which extends along the majority of Pennington Street. Located further to the south-east is Tobacco Dock, a large Grade I listed warehouse that acts as an event venue space. To the south of the listed warehouses is a large redevelopment site, London Dock the former News International site that benefits from its own Site Allocation within the Local Plan that has informed the range and scale of development upon that site.
- 1.4 The area has historically revolved around the docks with associated dock walls and buildings. Tobacco Dock and Pennington Street warehouses still physically remain. London Dock was the main dock in the local area until it was filled and became home to News International printworks. The land around London Dock was redeveloped in the 1980s with low and mid-rise housing.



Figure 1: Aerial view of the site from the south

- 1.5 Turning to the site itself, the eastern part of the site currently comprises a 6,298sqm (GIA) building occupied by Big Yellow Self Storage warehouse facility. There are also other occupiers within this part of the site including events/ warehouse/ industrial/ office uses. This building includes a hardstanding car park and service yard fronting on to The Highway. As a result of the level change across the site it comprises of a two storey building fronting The Highway and a three storey building fronting Pennington Street.

- 1.6 The western part of the site currently comprises a 3,845sqm (GIA) building. It was until recently in use as a Volkswagen car show room, workshop, and offices. The use of this part of the site is currently sui generis. There are currently multiple vehicle and pedestrian access points to the Site via both The Highway and Pennington Street.
- 1.7 In relation to Tower Hamlets Local Plan policy designations, the site is located within the City Fringe sub area, Tower Hamlets (City Fringe) Activity Area, Tier II Archaeological Priority Area (The Highway), Wapping Neighbourhood Planning Area, Green Grid Buffer Zone, and it is within an area of poor air quality (NO2 annual mean concentrations greater than 60 (µgm-3) and 40 (µgm-3)). In relation to London Plan policy designations, the site is located within the City Fringe Opportunity Area.
- 1.8 In relation to nearby town centres, the Central Activities Zone and the Thomas More Neighbourhood Town Centre are approximately 350m to the south-west, the Wapping Lane Neighbourhood Town Centre is 425m to the south-east, and the Watney Market District Centre is 270m to the north-east. The site has a PTAL of 4, indicating a good level of accessibility. Shadwell station (London Overground and Docklands Light Railway) is 440m to the north-east and Wapping Overground station is 600m to the south.
- 1.9 The site is not within a conservation area and there are no listed buildings on the site. As noted above, the Grade II listed Pennington Street Warehouses is located directly across Pennington Street to the south. Other listed buildings located within proximity of the site include the Grade I listed Tobacco Dock, and the Grade I listed Church of St George in the East.

## 2. PROPOSAL

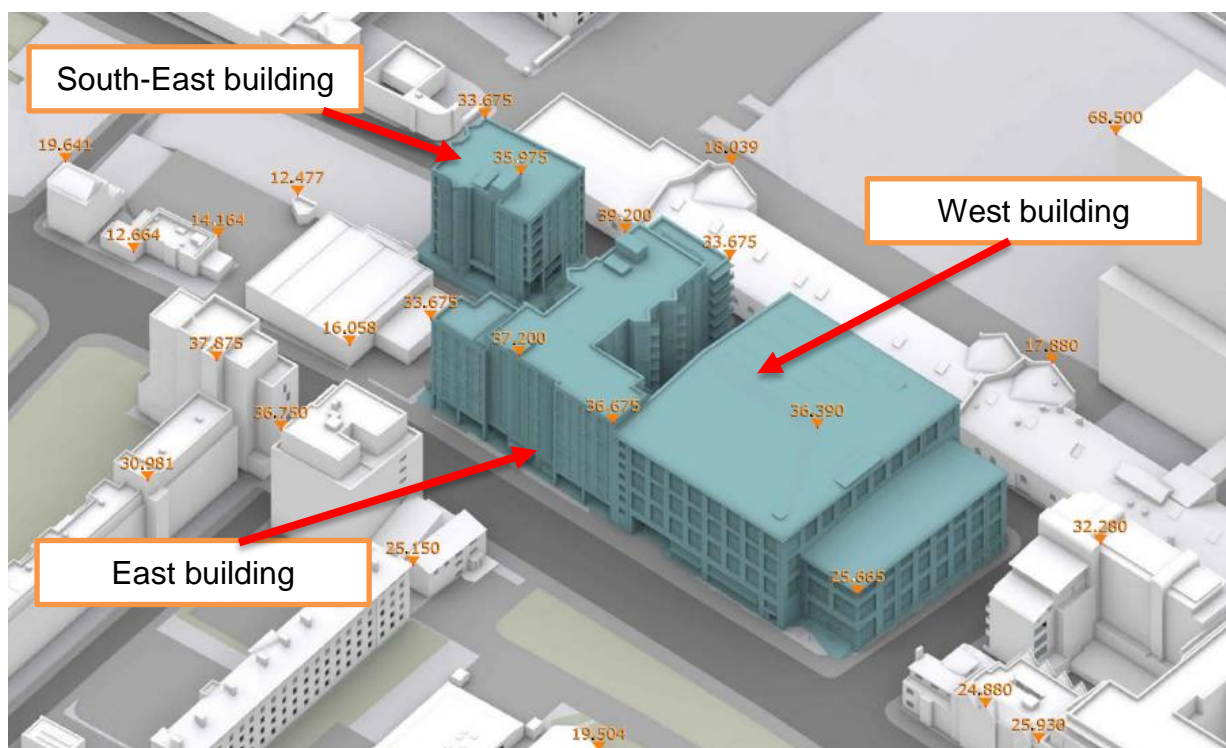


Figure 2: Building key (north to the bottom)

- 2.1 The proposal involves demolition of all existing buildings on the site and the erection of a standalone larger rectangular building to the west as well as a T-shaped building to the centre of the site and a smaller rectangular building located to the far south-east (shown in Figure 2).

The building on the western part of the site would be ground plus seven upper storeys (23.8m height from street level on The Highway and 28.4m height from street level on Pennington Street) and comprise 7,778sqm (GIA) self-storage facilities (B8 use class) at all floor levels which could include future demountable mezzanine floorspace upto 17,244sqm, along with 1,418sqm flexible office/workspace (E(g) use class) from basement to fourth floor. This building would include an internal service yard for 16 commercial car parking spaces accessed from The Highway and 2 internal commercial van parking spaces accessed from Pennington Street.

- 2.2 The building on the eastern part of the site (26.7m height from street level on The Highway and 28m height from street level on Pennington Street) and south-east (27.7m height from street level on Pennington Street) buildings would comprise of two 8 storey buildings interconnected by a single storey building across that part of the site facing Pennington Street. The east and south-east buildings would consist of 11,013sqm (GIA) residential floor space at upper floor levels, providing 114 flats along with a replacement nightclub/ photography and filming studio venue (Sui Generis use class) at lower-ground and ground levels (968sqm) and flexible commercial space (E(a, c, d, e, f, g) use class) at lower-ground and ground level (625sqm). These buildings would include an internal residential car parking (6 accessible spaces) and servicing area accessed from Pennington Street, along with private residential amenity space at podium level and a new north-south pedestrian link through the site located between the T-shaped eastern building and the south-eastern rectangular building.

### **3.0 RELEVANT PLANNING HISTORY**

- 3.1 The relevant planning history that relates to the application site is set out below:

*Unit 2, 110 Pennington Street*

- 3.2 PA/98/01493: Alterations to existing industrial unit to create two light industrial units. Permitted – 15/06/1999

- 3.3 PA/99/00076: Conversion of part (65%) of ground floor unit to wine bar/nightclub and new shop front. Permitted – 07/06/1999

*Unit 1, 110 Pennington Street*

- 3.4 WP/88/00027: Change of use to warehouse/storage. 25/04/1988

*Unit 3, 110 Pennington Street*

- 3.5 PA/86/01091: Use of light industrial unit as a warehouse. Permitted – 19/05/1986

*110 Pennington Street*

- 3.6 PA/86/01090: Erection of new office accommodation at roof level. Permitted – 22/04/1987

- 3.7 PA/85/01014: Use of part of lower ground floor for servicing and repair of taxis. Permitted – 08/08/1985

- 3.8 PA/85/01013: Revised application for formation of light industrial units, retail showroom, snooker club (1st floor) and extension to existing offices at roof level and provision of general parking facilities. Permitted – 06/08/1985

- 3.9 PA/84/00988: Formation of 23 industrial units, extension to existing offices at roof level, alterations to elevations and formation of vehicular access. Permitted – 06/12/1984

*100 The Highway & 110-116 Pennington Street*

- 3.10 WP/89/00139: Erection of part 5 / part 6 storey building comprising 6 retail (A1) retail units & offices(B1) together with associated car parking. Raise Objections – 09/12/1991

*100 The Highway*

- 3.11 WP/94/00109: Erection of an additional storey to provide 23 self-contained flats. Appeal dismissed – 20/07/1995

- 3.12 WP/86/00077: Conversion and alteration of existing industrial building and structure to form car showroom, workshop and light industrial unit with car parking and open car sales area. Permitted – 15/07/1986

*60 The Highway*

- 3.13 PA/16/03548: The demolition of the existing buildings and the construction of a building ranging from 7 to 16 storeys, comprising a replacement car showroom and vehicle servicing centre (sui generis) and associated parking, 152 residential units (Use Class C3) and amenity space. Withdrawn – 13/07/2020

- 3.14 PA/16/01049: Demolition of existing buildings and construction of a new part 7/ part 8/ part 10/ part 11/ part 14 storey development to provide a replacement car showroom and servicing (use class sui generis) at ground and lower ground and 150 residential units (use class C3) on upper floors. Includes associated amenity space, cycle parking and refuse storage. No further action – 12/01/2017

- 3.15 PA/15/00885: Outline planning application for the demolition of existing buildings and the erection of a part 5, part 6, part 15 and part 19 storey building to include up to 230 residential units (Class C3), retail floorspace (Class A1), replacement car showroom (sui-generis) and associated parking, access and servicing arrangements (All matters reserved). Withdrawn – 27/04/2015

- 3.16 PA/02/00059: Redevelopment of existing motor sales, parts & workshop facility by extending the existing showroom on ground and first floor, addition of a second floor for administration offices and creation of new elevated car storage deck together with internal alterations. Permitted – 13/03/2002

- 3.17 WP/93/00091: Renewal of planning permission TW/88/123 dated 6th March 1989 for redevelopment comprising erection of new building for ground floor car showroom and restaurant, 3 retail units and offices and associated off street car parking. Permitted – 06/08/1993

- 3.18 WP/88/00158: Redevelopment comprising erection of new building for ground floor car showroom, restaurant (class A3 of the 1987 use classes order), three retail units (class A1) and Offices (class B1) and associated off street car parking. Permitted – 06/03/1989

#### Neighbouring Sites

- 3.19 The relevant planning history that relates to the sites in close proximity to the application site is set out below:

*120 Pennington Street*

- 3.20 PA/85/01015: Change of use to sound recording studio. Permitted – 19/02/1986

*Former 122-132 Pennington Street*

- 3.21 The following applications were not built out:

- 3.22 PA/97/00841 & PA/97/00843: Erection of a pedestrian bridge from Tobacco Dock to 132 Pennington Street and amendments to bridge already approved from 132 Pennington Street to site of 134 Pennington Street over Chigwell Hill. Permitted – 12/03/1998
- 3.23 WP/96/00184: Redevelopment by the erection of a building comprising 4585 sq. metres floorspace, for use as A1/A3/D2 (retail, restaurant, nightclub and leisure) with bridge link across Chigwell Hill. Permitted – 27/03/1997
- 3.24 WP/94/00091: Mixed development comprising of retail (A1), office (B1) and associated off-street parking (details as per previous expired approval TW/88/186). Permitted – 01/11/1994
- 134 to 140 (even) Pennington Street & 130, 136 & 154 to 162 The Highway*
- 3.25 PA/11/01278: Redevelopment of the site to provide a 242 room hotel (class C1), 63 serviced apartments (sui-generis) and retail (class A1) building with publicly accessible courtyard together with provision of vehicular and pedestrian access. Permitted – 07/02/2012
- Former 130-162 The Highway & Tobacco Dock*
- 3.26 WP/96/00089: Revised plans in respect to redevelopment of site by erection of a building comprising retail, multi-screen cinema, car park, leisure, storage and servicing with tunnel beneath Pennington Street to Tobacco Dock. Permitted – 27/03/1997
- 102-126 and 128 The Highway*
- 3.27 PA/19/00559: Demolition of existing petrol filling station (sui generis use class) and drive-through restaurant (A3 use class) and redevelopment of site to provide buildings ranging in height from 5-7 storeys, comprising 80 residential dwellings (C3 use class) and 587sqm (GIA) commercial floorspace (flexible A1/A2/A3/A4/B1/D1/D2 use classes) plus associated servicing, parking and refuse stores, amenity space and public realm enhancement. Refurbishment of existing public house (302sqm). Resolved to be approved at Development Committee on 05/11/2020. Permitted – 29/07/2022
- Tobacco Dock*
- 3.28 PA/22/00916: Application for Certificate of Lawfulness in respect of existing use of the site as an Events and Conferencing Venue (Use Class Sui Generis). *Currently under consideration*
- Floors Nine to Twelve, Pennington Street Car Park, Tobacco Dock*
- 3.29 PA/21/02715: Retrospective application for the continued use as a Bar (A4) and erection of associated structures. Minor Material Amendments to Planning permission Ref: PA/20/01682, Dated 12/04/21: Amendments include: - Variation of Condition 1 to extend permission until 12 April 2027; - Variation of Condition 4 (noise impact). Temporary consent permitted for 1 year – 20/05/2022
- 3.30 PA/20/01682: Retrospective application for the continued use as a Bar (A4) and erection of associated structures. Temporary consent permitted for 1 year – 12/04/2021

#### **4. STAKEHOLDER ENGAGEMENT AND PUBLICITY**

- 4.1 The applicant undertook extensive pre-application engagement with the Council, local residents, ward councillors and other relevant stakeholders. The Statement of Community Involvement submitted with the planning application provides a more detailed summary of the consultation to date and ongoing engagement for the future. Letters were sent out to

properties and councillors in the local area, online public Q&A sessions were undertaken and a website was setup.

- 4.2 At application stage, 211 neighbouring properties were sent notification letters about the planning application by the Council on 21/12/2021. Site notices were erected in close proximity to the site on 12/01/2022. The application was also advertised in the local press on 23/12/2021.
- 4.3 A total of 9 letters of representation have been received with 8 in objection and 1 in support. The concerns that were raised following both initial consultation and re-consultations are outlined and categorised below. It should be noted that whilst the below provides a summary of the responses received, officers have had regard to the full submissions when assessing the proposed development.

#### Issues raised by public in objection

- Loss of light/overshadowing including cumulative impacts from London Dock.
- Overlooking, loss privacy and close proximity across Artichoke Hill.
- Increase in density.
- Air pollution.
- Daylight/sunlight assessment is not accurate.
- Right to light concerns.
- Future privacy impacts if storage space is converted to residential.
- Additional traffic and insufficient parking in the area currently from construction and end use.
- Noise/dust and impact on health/working from home– construction phase and cumulative impacts due to London Dock development.
- Road access – during both construction and occupation stages.
- Potential to prejudice adjoining development
- Proposal is too tall and would result in a change to landscape/townscape – setting an unwarranted height for other developments in the vicinity. The proposal is a tall building as per Local plan definitions.
- Robust justification has not been provided that the new residents of this development would be sufficiently protected from noise from Tobacco Dock. Acoustic consultants have reviewed the relevant report that forms part of the application and concerns exist in relation to the operation at Tobacco Dock. In line with the Agent of Change principles, the new development must ensure that it has been designed to avoid conflict and provide appropriate mitigation to protect the ongoing operation of Tobacco Dock.
- Replacement nightclub queuing system requires consideration and should not extend eastwards.
- Scheme would cause significant prejudice to the future redevelopment potential of site to east as it would rely on outlook over the neighbouring site.



### Issues raised by public in support

- Will further serve to regenerate and enhance this part of Artichoke Hill/Pennington Street. The area has suffered from ASB in recent years, partly due to the derelict garage and warehouses.
- Residential properties with communal green spaces open to the local community will hopefully transform this area into a safe, thriving, family friendly part of Wapping.

## **5. CONSULTATION RESPONSES**

5.1 Below is a summary of the consultation responses received from both internal and external consultees from initial consultation stage, including various re-consultations.

5.2 It should be noted that whilst the below provides a summary of the responses received, officers have had regard to the full submissions when assessing the proposed development.

### **Internal responses**

#### **LBTH Arboriculture:**

5.3 Content with the proposed tree protection measures for all three trees and the minor facilitation pruning to T3 and any impact would be negligible.

#### **LBTH Biodiversity:**

5.4 Subject to approval, conditions would be required to secure a biodiversity mitigation and enhancement plan.

#### **LBTH Energy Efficiency Unit / Sustainability Officer:**

5.5 Subject to approval, S106 legal agreement to secure; carbon offsetting contribution.

5.6 Subject to approval, conditions required to secure; as-built calculations to demonstrate delivery of anticipated carbon savings and monitoring requirements of the GLA 'Be Seen' policy; maximisation of renewable energy generating technologies on-site; BREEAM excellent for all commercial units >500m<sup>2</sup> at the latest BREEAM methodology relevant to that phase.

#### **LBTH Environmental Health (Air Quality):**

5.7 Subject to approval, conditions required to secure; dust management plan; mechanical ventilation details; PM10 monitoring.

#### **LBTH Environmental Health (Contaminated Land):**

5.8 Subject to approval, a pre-commencement condition would be secured in order to identify the extent of the contamination and the measures to be taken to avoid risk when the site is developed.

#### **LBTH Environmental Health (Noise & Vibration):**

5.9 Subject to approval, conditions have been recommended. The Council has commissioned an independent consultant to provide technical assessment of the scheme. Comments will be incorporated in section 7 of this report.

#### **LBTH Environmental Health (Smell/Pollution):**

- 5.10 Subject to approval, conditions would be required to secure details of; kitchen air extraction system and flues for commercial uses.

**LBTH Growth and Economic Development:**

- 5.11 Subject to approval, S106 legal agreement required to secure provision of financial contributions towards construction phase and end use phase job opportunities, and non-financial obligations towards construction phase apprenticeships, local job opportunities and local procurement.

**LBTH Housing:**

- 5.14 Following amendments which change an oversized 2-bed intermediate unit to a 3-bed, agree to the scheme meeting Fast Track, subject to a clause in the s106 legal agreement to ensure that London Affordable Rent levels would be not higher than Tower Hamlets Living Rent levels with service charges included.

**LBTH Housing (Occupational Therapy):**

- 5.14 Detailed layout advice for wheelchair accessible housing is provided.

**LBTH Sustainable Urban Drainage Systems:**

- 5.15 Subject to approval, conditions would be required to secure a detailed surface water drainage scheme.

**LBTH Transportation and Highways:**

- 5.16 Following clarifications and amendments sought and received, mainly on the number of cab trips generated by the cultural venue, future potential accessible car parking bays, travel management plan for the cultural venue, car park security, electric vehicles charging, cycle parking, servicing, public realm, travel plans, loading bay management and street maintenance, subject to approval, conditions and planning legal obligations would need to be secured as below.
- 5.17 Planning legal obligations: s278 legal agreement to secure highways improvement works; £50,000 commuted sum (to be kept for 3 years) towards 6 potential accessible car parking bays on Pennington Street; £15,000 commuted sum (to be kept for 3 years) towards potential on-street restrictions due to servicing on Pennington Street and Artichoke Hill.
- 5.18 Conditions:
- 'Permit Free' agreement which restricts all future residents (other than those that are exempt) from applying for parking permits on the surrounding public highway.
  - All blue badge parking bays (six) to be retained and maintained for their approved use only for the life of the development.
  - Car Park Management Plan which states how spaces will be allocated, electric vehicle charging and a clause which explicitly states that no sub-letting will take place.
  - Travel Plans for all uses
  - Service Management Plan indicating how servicing for the store and to the other uses, such as residential home deliveries, post, 'Amazon' type deliveries will take place within the boundary of the site.
  - Construction Management Plan showing how construction will take place whilst limiting the impact on the public highway and its users.
  - Travel Management Plan for the nightclub



- Full details of the cycle provision for all uses are required together with details of how this provision meets the London Plan standards and accords with the London Cycle Design Standards in terms of the design elements and how 5% of the spaces are designed for larger / adapted cycles. All Cycle facilities are to be retained and maintained for their approved use only for the life of the development.

### **LBTH Waste Policy & Development:**

- 5.19 Following amendments providing more information on gradients of ramps for refuse collection, appears to be acceptable.

Officer response: Subject to approval, a site waste management plan would be secured by condition.

### **External responses**

#### **Greater London Authority:**

- 5.20 Land use principles: The principle of the proposed mix of land uses could be strongly supported within the City Fringe/Tech City Opportunity Area, however this is subject to further consideration of the Council's assessment in relation to impacts associated with the nightclub and cultural venue re-provision and the storage use. Key details must then be secured to ensure acceptable design mitigation and co-location of uses.
- 5.21 Housing: 114 residential units are proposed with 37.7% affordable housing by habitable room, split 72.4 % affordable rent (50% London Affordable Rent and 50% Tower Hamlets Living Rent) and 27.6% intermediate tenure (flexibly secured as shared ownership/ London Living Rent). The proposal should follow the Fast Track Route.
- 5.22 Urban design and heritage: The proposed architectural approach, massing and site layout are broadly supported. The Council's assessment will also need to be considered in relation to the nightclub and photography/ filming studio venue, residential quality, and storage co-location. Items in relation to fire safety should be addressed and key details secured. Whilst it is not considered that any harm would result to the significance of heritage assets, the Council's assessment will also be taken into account at Stage II.
- 5.23 Transport: The proposal has yet to fully comply with London Plan policies, the applicant should address comments on trip generation assessment and walking and cycling; public realm/crossing improvements should be secured; the Council is also strongly encouraged to secure contributions towards cycle and pedestrian improvements on the local borough highway network; and Delivery and Servicing, Construction Environmental Management, Construction Logistics and Travel Plans should support their respective elements of the proposed development.
- 5.24 Sustainable development: An energy statement has been submitted with the application. Although broadly compliant with London Plan policies, the applicant is required to further refine the energy strategy and submit further information to fully comply with London Plan requirements. Items in relation to Whole Life Carbon and Circular Economy must also be addressed.
- 5.25 Environmental Issues: The applicant should address comments in relation to air quality.

Officer response: Subsequently the above points have been clarified between the applicant and GLA with updated submissions, which are considered to be acceptable at this, prior to further scrutiny at GLA Stage II level.

**Health & Safety Executive:**

- 5.26 Following two rounds of amendments, including submission of amended plans and documents, HSE are content.

**Historic England:**

- 5.27 Do not wish to offer any comments.

**Historic England (Greater London Archaeological Advisory Service):**

- 5.28 Subject to approval, conditions would required to secure a stage 1 written scheme of investigation, and details of foundation design and construction method to protect archaeological remains.

**London Fire and Emergency Planning Authority:**

- 5.29 No response.

**Metropolitan Police:**

- 5.30 Subject to approval, condition required to that the scheme achieves Secure by Design standards to the satisfaction of the Metropolitan Police.

**Night Time Industries Association:**

- 5.31 No response.

**Thames Water:**

- 5.32 Subject to approval, conditions required to secure; piling method statement, water infrastructure network upgrades including development and infrastructure phasing plan.

**Transport for London:**

- 5.33 The proposal is unlikely to cause an unacceptable highway capacity impact to the TLRN subject to the applicant entering s278 agreement with TfL for the delivery of any required work on TLRN.
- 5.34 We are content £335K will be secured to the provision of pedestrian crossing improvement on the TLRN.
- 5.35 Issues previously raised in the Travel Plan has now been addressed, subject to it being secured by s106.
- 5.36 We would expect other highway/ transport related issues like construction logistics, DSP, approval of details for cycle parking, EVCP provision, Car parking design & management plan to be secured by planning condition.

Officer response: Conditions and S106 legal obligations have been considered and actioned accordingly.

## 6. RELEVANT PLANNING POLICIES AND DOCUMENTS

6.1 Legislation requires that decisions on planning applications must be taken in accordance with the Development Plan unless there are material considerations that indicate otherwise.

6.2 The Development Plan comprises:

- London Plan (2021)
- Tower Hamlets Local Plan 2031 (2020)

6.3 The key Development Plan policies relevant to the proposal are:

6.4 Land Use (*residential, employment, retail, restaurant, cultural*)

- London Plan policies: H1, E1, E2, E3, E4, E7, E9, HC5, HC6
- Local Plan policies: S.H1, S.EMP1, D.EMP2, D.TC3, D.TC4, D.TC5, S.CF1, D.CF2, D.CF3

Housing (*affordable housing, housing mix, housing quality*)

- London Plan policies: D6, D7, H4, H5, H6, H10
- Local Plan policies: S.H1, D.H2, D.H3

Design and Heritage (*layout, townscape, massing, height, appearance, materials, heritage*)

- London Plan policies: D1, D3, D4, D5, D8, D9, D11, D12, HC1, HC2, HC3, HC4
- Local Plan policies: S.DH1, D.DH2, S.DH3, D.DH4, D.DH6, D.DH7

Amenity (*privacy, outlook, daylight and sunlight, noise, construction impacts*)

- London Plan policies: D3, D6, D9
- Local Plan policies: D.DH8, D.ES9

Transport (*sustainable transport, highway safety, car and cycle parking, servicing*)

- London Plan policies: T2, T4, T5, T6, T6.1, T7
- Local Plan policies: S.TR1, D.TR2, D.TR3, D.TR4

Environment (*air quality, biodiversity, contaminated land, flooding and drainage, energy efficiency, waste*)

- London Plan policies: G5, G6, G7, SI1, SI2, SI5, SI8, SI12, SI13
- Local Plan policies: S.ES1, D.ES2, D.ES3, D.ES4, D.ES5, D.ES6, D.ES7, D.ES8, D.MW3

### Other policies and guidance

6.5 Other policy and guidance documents relevant to the proposal are:

- National Planning Policy Framework (2021)
- Planning Practice Guidance (2021)
- National Design Guide (2019)

*Greater London Authority*

- *Draft* Characterisation and Growth Strategy (2022)
- Circular Economy Statements (2022)
- *Draft* Housing Design Standards (2022)
- Energy Assessment Guidance (2022)
- *Draft* Fire Safety (2022)
- *Draft* Optimising Site Capacity: A Design-led Approach (2022)
- Whole Life-cycle Carbon Assessments (2022)
- *Draft* Air Quality Neutral (2021)
- *Draft* Air Quality Positive (2021)
- Be Seen Energy Monitoring Guidance (2021)
- Public London Charter (2021)
- *Draft* Sustainable Transport, Walking and Cycling (2021)
- *Draft* Urban Greening Factor (2021)
- Affordable Housing and Viability (2017)
- Housing (2016)
- City Fringe Opportunity Area Planning Framework (2015)
- Social Infrastructure (2015)
- Accessible London: Achieving an Inclusive Environment (2014)
- Character and Context (2014)
- The Control of Dust and Emissions During Construction and Demolition (2014)
- Play and Informal Recreation (2012)
- All London Green Grid (2012)
- Play and Informal Recreation (2012)
- Planning for Equality and Diversity in London (2007)

#### *Tower Hamlets*

- Reuse, Recycling and Waste (2021)
- Planning Obligations (2020)
- High Density Living (2020)
- Development Viability (2017)

#### *Other*

- Site Layout Planning for Daylight and Sunlight: A Guide to Good Practice

## **7. PLANNING ASSESSMENT**

### **7.1 The key issues raised by the proposed development are:**

- i. Land Use
- ii. Housing
- iii. Design & Heritage
- iv. Neighbouring Amenity
- v. Nightclub Impacts and mitigation
- vi. Highways and Transport
- vii. Environment
- viii. Infrastructure
- ix. Human Rights & Equalities

## LAND USE

### Policy Context

- 7.2 The London Plan identifies the application site as falling within the City Fringe Opportunity Area. The City Fringe Opportunity Area Planning Framework (OAPF) sets out the strategic policy directions for these areas and provides minimum guidelines for housing and employment capacity (15,500 new homes and 50,500 new jobs). Development proposals within Opportunity Areas are expected to optimise residential and non-residential output and densities, contributing to the minimum guidelines for employment and housing numbers.
- 7.3 London Plan Policy SD1 identifies Opportunity Areas as significant locations with development capacity to accommodate new housing, commercial development and infrastructure (of all types), linked to existing or potential improvements in public transport connectivity and capacity. Opportunity Areas typically contain capacity for at least 5,000 net additional jobs or 2,500 net additional homes or a combination of the two. Opportunity Areas are designated as areas that are expected to receive the most significant change and have the potential to deliver a substantial amount of the new homes and jobs that London needs.
- 7.4 London Plan Policy GG2 prioritises the development of brownfield land particularly within Opportunity Areas, surplus public sector land, and sites within and on the edge of town centres. The site is 270m from Watney Market District Centre.
- 7.5 Within the Local Plan, the application site is identified within 'Sub-area 1: City Fringe'. The Vision for City Fringe states that the area will become a more attractive place to live, work and visit, and that new communities will be well integrated into the area, benefiting from the close proximity to existing and new employment, retail and leisure uses within the wider area. Policy S.SG1 states that new development within the borough will be directed towards opportunity areas.

### Loss of Existing Car Dealership

- 7.6 The western part of the site is approximately 2,810sqm and contains a 2-3 storey building (3,845sqm GIA) with surface level and roof level car parking. Until recently, the site was used as a car showroom, ancillary workshop and offices (from around 2002 to March 2021). The lawful use of the site therefore appears to be within Sui Generis use class. Although the previous use of the site would have been an employment generating use, it would not be an employment use as defined and protected by the Local Plan.
- 7.7 Presently, the site is partly vacant and partly occupied by meanwhile uses such as a motorbike outlet, short term storage and office uses with some temporary drinking/food and music uses taking place on weekends. There are no planning policies which would resist the loss of the car dealership use on the site. The Development Plan favours moves away from car dominating uses. The loss of the car dealership is acceptable in policy terms.

### Existing Employment Uses

- 7.8 The eastern part of the site is approximately 3,080sqm and contains a 2-3 storey building (6,298sqm GIA) which has a mix of uses, including a car park and service yard fronting The Highway. The submission states that this building comprises 12 units of which Units 1, 2 and part of 3 (1,123sqm) are occupied by Studio Spaces (photography/ filming studio venue and nightclub) – this use will be assessed further below. Unit 6 is currently occupied by Gorillas, a storage and distribution business (B8 use class) with the remainder of the building occupied by Big Yellow, a self-storage company (B8 use class).
- 7.9 It is understood that numerous other small, medium and micro enterprises have operated within the building over the years. It is understood that Unit 3 was previously split into 15

smaller units which included a diverse range of uses such as light industrial, office, shisha bar/ pool club, radio station and recording studio, without the benefit of planning permission. A planning consent from 1985 (PA/85/01013) also included retail showroom, office and snooker club uses on the site at first floor level. A planning consent from 1985 also included the servicing and repair of taxis. Offices have been permitted in the building over the years.

- 7.10 From planning history and site analysis, it appears that the building appears to have predominantly been in use as light industrial/ retail wholesales/ warehouse, which would fall under employment uses protected by the Local Plan. Historically, there also appears to have been some element of a broader mix of uses but it is unclear when these existed on the site within the past 10 years.
- 7.11 The submission states that Big Yellow Self-Storage started to occupy units in the building from 2017 incrementally and has continued to expand in the building until 2020 so that it now occupies Units 3 (part) to 12. Machine Mart, a retail wholesaler, previously occupied much of the building and can be seen on The Highway side of the site in Google Streetview imagery from 2008. The existing quantum of Big Yellow Self Storage floorspace (5,175sqm) would fall under employment uses protected by the Local Plan by policy D.EMP3 which resists the net loss of viable employment floorspace outside of designated employment locations.

#### Proposed Residential Uses

- 7.12 The proposed development seeks up 114 residential units at upper floor levels. Part 11 of the NPPF requires planning policies and decisions to promote an effective use of land and paragraph 118 (c and d) states that planning decisions should give substantial weight to the value of using suitable brownfield land within settlements for homes and other identified needs and promote and support the development of under-utilised land and buildings.
- 7.13 London Plan Policy H1 sets a strategic expectation that the Borough will need to deliver 34,730 homes as a 10-year housing target between 2019/20 and 2028/29. As detailed in this policy, it is expected that much of this housing delivery is targeted within Opportunity Areas and areas identified by Local Planning Authorities for redevelopment and regeneration.
- 7.14 Policy S.H1 refers to the need for the Borough to secure the delivery of 58,965 new homes between 2016 and 2031, which equates to 3,931 new homes each year. Provision is to be focussed in Opportunity Areas. The City Fringe Sub-area is expected to deliver at least 10,334 new homes by 2031.
- 7.15 Taking into consideration the local and strategic policy designations as well as the NPPF, the provision of housing in this location is strongly supported by the Development Plan.

#### Proposed Employment Uses

- 7.16 In the west side of the site, the proposal would involve the provision of 7,778sqm of self-storage (B8 use class) floor space at basement to seventh floor level, along with 1,418sqm flexible office/workspace (E(g) use class) at basement to fourth floor level. The flexible office/workspace would include a range of spaces suitable for the use of Small and Medium Enterprises (SMEs) with units from 20sqm, in accordance with policy S.EMP1. Micro-office spaces (15sqm) would also be available within some of the self-storage units. The west side of the site would ensure an overall uplift in employment floorspace from 5,175sqm as existing to a minimum of 9,196sqm as proposed.
- 7.17 The applicant has suggested that the self-storage floorspace could potentially rise to a maximum of 18,662sqm with demountable mezzanine levels which could potentially be installed using permitted development rights after completion of the development. The Transport Assessment has been undertaken assuming the maximum possible floorspace. The

proposal would be in accordance with policy D.EMP2 which supports new employment floorspace within Tower Hamlets Activity Areas (the site is within the City Fringe Activity Area).

- 7.18 The provision of flexible office/ workspace is supported by London Plan policies E1 and E2. London Plan policy E4 supports the provision of storage uses close to Central London. The existing self-storage use results in the application site being a Non-Designated Industrial Site as defined by the London Plan. Policy E4 supports the retention, enhancement and provision of additional industrial capacity of such sites, as the application proposes.
- 7.19 In the east and south-east buildings of the site, below the residential units, there would be 625sqm flexible commercial space (E(a, c, d, e, f, g) use class). If the flexible commercial floorspace was taken up as E(g) then it would ensure an even greater uplift of employment floorspace, further supported by policy D.EMP2.
- 7.20 The site would provide a minimum of 9,196sqm employment floorspace. In accordance with policy D.EMP2, a minimum of 10% (920sqm) would be provided as affordable workspace (discounted by 10% from the quoted all-inclusive rent). Although the majority of the employment floorspace proposed is self-storage, the applicant has committed to providing 920sqm office floorspace as affordable, which is welcomed. In accordance with London Plan policy E3 the affordable workspace would be secured by s106 legal agreement, subject to approval, in perpetuity.
- 7.21 In addition, officers have formally secured the provision of 46sqm self-storage space for free to local charities – this would be secured by s106 legal agreement. In the existing self-storage, it is understood that Big Yellow offers 23sqm for free to local charities, however this agreement is not formalised by legal agreement. The free charity space proposed is considered to be a public benefit, beyond that required by planning policy.

#### Proposed Flexible Commercial Uses

- 7.22 Within Tower Hamlets Activity Areas, policy S.TC1 supports a mix of uses which make a positive contribution to health and well-being, promotes active uses at ground floor level and supports the delivery of new retail and leisure floorspace to meet identified needs. In the proposed east and south-east buildings of the site, below the residential units, there would be 625sqm flexible commercial space (E(a, c, d, e, f, g) use class). Units 3 (104sqm) and 4 (117sqm) would front Pennington Street and Units 5 (211sqm) and 6 (193sqm) would front The Highway. Restaurant and café uses (E(b)) would be excluded from the flexible commercial mix and this would be controlled by way of condition.
- 7.23 Policy D.TC3 supports the provision of new retail development (E(a)), subject to a sequential test and an impact assessment where units exceed 200sqm. A Retail and Town Centre Impact Assessment has been provided by Quod. Supporting paragraph 11.32 describes that new retail uses may be appropriate in Tower Hamlets Activity Areas where they would not detrimentally affect the viability and viability of town centres. Only one of the proposed flexible commercial units (which may or may not become retail floorspace) exceeds 200sqm (211sqm). Owing to its location, 270m from the nearest town centre, the relatively small scale of the proposed units (which may or may not become retail floorspace) along with the new residential units at the site which the proposed commercial could help serve, a sequential test and an impact assessment are not considered to be required – the level of potential retail is not considered to significantly detrimentally affect the viability and viability of town centres.
- 7.24 Policy D.TC4 supports the provision of financial and professional services (E(c) use class) outside town centres where they would be local in scale, with a reasonable prospect of the unit being occupied. The proposed units would be sufficiently local in scale and would be acceptable as one a number of flexible commercial uses.

- 7.25 Policies S.CF1 and D.CF3 support the provision of new community facilities such as E(d) (indoor sport, recreation or fitness (not involving motorised vehicles or firearms or use as a swimming pool or skating rink), E(e) (medical or health services) and E(f) (creche, day nursery or day centre), as long as they are in location which are accessible to their catchments depending on the nature and scale of the proposal and if an up-to-date and robust local need can be demonstrated. The proposed units would be sufficiently local in scale and are considered to be acceptable as one a number of flexible commercial uses. A flexible commercial space curating strategy would be sought by condition, subject to approval, to ensure a balanced mix of uses and maximisation of active uses, including potential meanwhile uses.

#### Reprovided Nightclub and Photography/ Filming Studios

##### *Nightclub*

- 7.26 Units 1, 2 and 3 (part) of 110 Pennington Street on the eastern part of the site contain a nightclub and photography/ filming studios of approximately 1,123sqm. On weekdays, Studio Spaces runs as a photography/ filming studios for various media shoots. On weekends, E1 operates as a 1,600 capacity nightclub which is the largest regular night venue of its kind in the borough. Recently E1 was listed as the 45<sup>th</sup> best nightclub in the world (DJ Mag, 2022).
- 7.27 Unit 2, 110 Pennington Street obtained planning consent (PA/99/00076) for a nightclub in 1999. The planning consent specified that 65% of Unit 2 was to be used as a wine bar/night club. In the submission, Unit 2 is listed as 569sqm, Unit 1 is 469sqm and Unit 3 (part) is 85sqm. It is understood that a nightclub has operated from Unit 2 for almost 20 years under various guises (such as Copyright, Mango's, Studio Spaces, Club E1). It is understood that the current operator (Studio Spaces/ E1) started operating from Unit 2 around 2011/12 and started using Unit 1 in 2013.
- 7.28 The nightclub is an established part of the London nightclub and music scene and its retention is strongly supported by the Development Plan. The GLA Culture at Risk Unit has further clarified that *"the venue has hosted major international headlining DJs, and catered to a diverse audience, including vital programming for the LGBTQ+ community. Our office would strongly urge against any proposal that risks reducing the scale or quality of this asset as a significant and valuable part of London's cultural and night-time economy."*
- 7.29 E1 plays host to a wide range of events and also dedicates a proportion of its schedule (2-3 nights out of a total of 8-9 per month) towards LGBTQ+ (lesbian, gay, bisexual, transgender and queer) nights as well as the kink and sex-positive community. The existing venue is an inclusive space which caters for persons of protected characteristics as defined by the Equality Act (2010). The protection and enhancement of inclusive spaces is supported by the Development Plan.
- 7.30 An EqlA is appended to this report for further guidance (see Appendix 4). In summary, the proposed development would negatively impact on groups with protected characteristics, especially age, sexual orientation and gender reassignment, unless mitigation measures are secured. The mitigation measures are outlined in further detail in the EqlA, in the 'Nightclub Impacts' section and in the 'Human Rights & Equalities' section. The mitigation measures have been agreed by the applicant and if the application were to be approved, these would need to be secured by condition and s106 legal agreement.
- 7.31 In accordance with policy D.TC5, the location of a nightclub in this location is supported as the site falls within the Tower Hamlets (City Fringe) Activity Area. The nightclub would fall under the scope of social infrastructure protected by the Local Plan as community facilities. Policy S.CF1 of the Tower Hamlets Local Plan (2020) seeks to protect, maintain and enhance existing community facilities. Policy D.CF2 states that existing community facilities must be



retained unless it can be demonstrated that there is no longer a need for the facilities or a replacement facility of similar nature would better meet the needs of existing users.

- 7.32 London Plan Policy HC5 states that development proposals should; *“protect existing cultural venues, facilities and uses where appropriate and support the development of new cultural venues in town centres and places with good public transport connectivity. To support this, boroughs are encouraged to develop an understanding of the existing cultural offer in their areas, evaluate what is unique or important to residents, workers and visitors and develop policies to protect those cultural assets and community spaces; seek to ensure that Opportunity Areas and large-scale mixed-use developments include new cultural venues and/or facilities and spaces for outdoor cultural events.”*
- 7.33 London Plan Policy HC6 states that planning decisions should; *“promote the night-time economy, where appropriate, particularly in the Central Activities Zone, strategic areas of night-time activity, and town centres where public transport such as the Night Tube and Night Buses are available; improve access, inclusion and safety, and make the public realm welcoming for all night-time economy users and workers; diversify the range of night-time activities, including extending the opening hours of existing daytime facilities such as shops, cafés, libraries, galleries and museums; protect and support evening and night-time cultural venues such as pubs, night clubs, theatres, cinemas, music and other arts venues.”*
- 7.34 For the reasons above, retention of the existing nightclub (Sui Generis use class) is required in accordance with Development Plan policies. Further details on proposed re-provision are provided in the ‘Summary’ below.

#### *Photography and filming studios*

- 7.35 Studio Spaces and E1 have run concurrently for the same time period and so the history of unit occupation for the nightclub is the same as for the photography and filming studios. It is understood that the internal units are redecorated after weekend music events in order to be ready for photo and film shoots in the fashion, television and film industries on weekdays. It is understood that the weekday use of the venue as photography and filming studios helps to support the business viability of the nightclub.
- 7.36 The photography and filming studios are supported as a cultural and creative, digital and media employment-generating use within the borough and the City Fringe Opportunity Area – also referred to as Tech City. Policy S.SG1 states that development within the borough will be directed towards opportunity areas. Supporting paragraph 7.12 describes how *“Tech City is a strategically important business cluster within the heart of the City Fringe sub-area, centred on digital and creative companies, particularly around Shoreditch, Spitalfields and Whitechapel.”*
- 7.37 Policy S.EMP1 describes how proposals will be supported *“which provide opportunities to maximise and deliver investment and job creation in the borough”* through *“supporting and promoting the competitiveness, vibrancy and creativity of the Tower Hamlets economy.”* Supporting paragraph 10.20 explains that Tower Hamlets has a diverse economy including creative and cultural industries.
- 7.38 The Vision for City Fringe in the Local Plan states that opportunities arising from Tech City should be maximised. The City Fringe Sub-area Development Principles in the Local Plan support economic growth by providing employment uses that contribute towards Tech City initiatives (in accordance with the City Fringe OAPF).
- 7.39 London Plan policy E8 describes how clusters such as Tech City should be promoted. Supporting paragraph 6.8.3 describes how film, fashion and design should be supported in line with the Mayor of London’s vision for a *“Production Corridor, developing facilities for*

*artistic and creative production from East London to Southend and into Kent.*" The paragraph also ascribes support for the growth of the tech and digital sector.

- 7.40 London Plan policy HC5 supports the continued growth and evolution of London's diverse cultural facilities and creative industries. Supporting paragraph 7.5.2 lists fashion, television, and film as some of the creative industries supported.
- 7.41 For the reasons above, retention of the existing photography and filming studios is required in accordance with Development Plan policies. Photography and filming studios would generally be considered to fall under E(g) use class, as employment uses protected by policy D.EMP3. Further details on proposed re-provision are provided in the 'Summary' below.

### *Summary*

- 7.42 The City Fringe OAPF strongly supports the retention of the nightclub/ photography and filming studios. Within the OAPF, Tech City is described as *"a world leading digital-creative business cluster."* One of the key growth conditions of the City Fringe listed in the OAPF is *"maintaining creative vibe."*
- 7.43 The OAPF provides important guidance on these issues. One of the five objectives of the OAPF is *"supporting the mix of uses that makes the City Fringe special,"* and the Executive Summary states that *"the pressure for new development should not erode the qualities that draw businesses and residents to the City Fringe attractive in the first place. Ongoing provision of the mix of supporting uses such as leisure, retail and night-time economy needs to be managed in a way that doesn't compromise the character of the area."*
- 7.44 Strategy 4 of the OAPF states that *"an expanded business cluster should not come at the expense of what makes it attractive to business in the first place. The vibrant, exciting mix of uses are a key element of this and offer a firm foundation for the future trajectory of the City Fringe. Policy and development proposals should support the provision of high density, mixed-use schemes across the City Fringe and such schemes should seek to provide a well-balanced mix of retail, cultural and leisure uses to support development. This should be in addition to, and not instead of, a level of B class employment space."*
- 7.45 The proposal would involve re-provision of the nightclub/ photography and filming studio in the new Unit 1 (879sqm) with the neighbouring new Unit 2 (64sqm) acting as part of the access area from Pennington Street. There would also be 25sqm for emergency access to ground floor level at The Highway. The proposed venue would be 968sqm which is a shortfall against the existing provision (1,123sqm); however the new purpose-built facility would benefit from enhanced quality in terms of layout and flexibility of the space and inclusive accessibility in accordance with policy D.CF2 and London Plan policy D5. The applicant has provided evidence that the existing operator, Studio Spaces/ E1, has intrinsically been involved in the design evolution from an early stage and that they are satisfied that the space would meet their needs in the future.
- 7.46 The phased construction of the space would ensure that Studio Spaces/ E1 would not have any breaks in operation. Subject to approval, the following measures would be secured in order to ensure that an appropriate nightclub/ photography and filming studios are re-provided in line with mitigation measures outlined in the EqIA that the applicant has agreed to:
- Right of first refusal to Studio Spaces/ E1 for Unit 1 and Unit 2 with marketing strategy only to nightclub operators at a comparable market rent, secured by legal obligation. If the current operator decided not to take on the space then the marketing strategy should include an obligation to market the daytime use of the space for cultural/ creative uses

- Construction phasing plan to ensure continuous operation of the nightclub, secured by legal obligation. The phasing should ensure that the nightclub should be able to stay in their existing premises until the replacement space is fit out to an appropriate specification and they are offered a lease for the replacement space
- Strategy to host a proportion of LGBTQ+ events (with opportunities for kink and sex-positive events), secured by legal obligation
- Opening hours of the nightclub, secured by planning condition
- The fit out of the nightclub space would need to be carried out by the developer to a specification that the nightclub operator is satisfied with or a financial contribution to cover fit out should be provided to the nightclub operator

7.47 Overall, the reprovision of the nightclub/ photography and filming studios is strongly supported by the Development Plan and is also endorsed by the Mayor of London and the GLA's Culture and Community Spaces at Risk team. As a purpose-built space, the space would benefit from improved noise insulation, as well as additional event/ transport management and crowd control measures, which will be discussed further in 'Highways and Transport,' 'Neighbouring Amenity' and 'Housing' sections below.

## HOUSING

7.48 The proposed development would deliver 114 new residential units (326 habitable rooms) at upper floor levels comprising 11,001sqm of residential floorspace.

### Unit Mix and Tenure Split

7.49 Policy D.H2 sets out target unit mixes for new housing in the borough, responding to the identified housing need within Tower Hamlets. This is considered to be a vital component of achieving mixed and balanced communities. The proposed housing unit mix has been tabulated below:

		Affordable Housing						Market Sale		
		Affordable Rented			Intermediate					
Unit Size	Total Units	Units	As a %	Policy Target %	Units	As a %	Policy Target %	Units	As a %	Policy Target %
Studio	0	0	25.9%	25%	0	46.1%	15%	0	35.1%	30%
1 Bed	39	7			6			26		
2 Bed	54	8	29.6%	30%	5	38.5%	40%	41	55.4%	50%
3 Bed	18	9	33.3%	30%	2	15.4%	45%	7	9.5%	20%
4 Bed	3	3	11.1%	15%	0			0		
<b>Total</b>	<b>114</b>	<b>27</b>	<b>100%</b>	<b>100%</b>	<b>13</b>	<b>100%</b>	<b>100%</b>	<b>74</b>	<b>100%</b>	<b>100%</b>

Figure 3: Housing Unit Mix

7.50 The overall housing unit mix is broadly in accordance with policy D.H2 as can be seen from Figure 3. The proportion of family-sized affordable rented units at 44.4% is marginally below the target of 45% however the scheme would actually deliver slightly more affordable housing than is required by Fast Track targets as will be explained further in the 'Affordable Housing' section below.

- 7.51 Within the affordable intermediate tenure, there would be an overprovision of 1-bedroom units and an underprovision of 3 and 4-bedroom units. Detailed analysis of the intermediate unit provision will be provided in the 'Affordable Housing' section below.
- 7.52 Within the market sale tenure, there would be a degree of over-provision of 1-bedroom and 2-bedroom units and an under-provision of family housing units (9.5% against 20%). It is noted that many of the 2-bedroom units proposed are 2-bed 4-person dwellings and would be more akin to family type accommodation. In addition, it is noted and welcomed that no studios are proposed.
- 7.53 Policy D.H2 requires a tenure split for affordable homes of 70% affordable/social rented and 30% intermediate housing, measured by habitable rooms. Based on the 124 affordable habitable rooms, 72% would be affordable rented and 28% would be intermediate. The proportion of affordable rented housing is in excess of the policy requirement, which is welcomed.

### Affordable Housing

#### *Policy background*

- 7.54 Development Plan Policies promote mixed and balanced communities and seek to secure the maximum reasonable amount of affordable housing. London Plan Policy H5 of the London Plan and the Mayor of London's Affordable Housing and Viability SPG set a strategic target of 50% affordable housing.
- 7.55 In line with the above, policy S.H1 outlines an overall target 50% of all new homes to be affordable housing. The policy sets a minimum of 35% affordable housing to be provided by developments that provide 10 new residential units or more (subject to viability).
- 7.56 London Plan Policy H6 and the Affordable Housing and Viability SPG set out a 'threshold approach' whereby schemes meeting or exceeding a specific threshold of affordable housing are able to progress via the Fast Track route whereby they are not required to submit viability information, nor be subject to a late stage viability mechanism. The thresholds are 35%, or 50% on Non-Designated Industrial Sites appropriate for residential uses where the scheme would result in a net loss of industrial capacity. The application site is a Non-Designated Industrial Site however the scheme would result in an uplift of industrial capacity, so the threshold would be 35%.
- 7.57 In order to maximise the affordability of affordable rented homes for Tower Hamlet's residents, policy D.H2 stipulates that 50% of the units should be secured as London Affordable Rent (LAR) (as set by the GLA) and 50% as Tower Hamlets Living Rent (THLR). Affordable rent levels are shown in Figure 4.

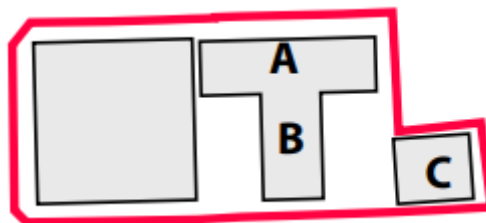
<b>Number of Bedrooms</b>	<b>London Affordable Rent (LAR) 2022/23 (per week)</b>	<b>Tower Hamlets Living Rent (THLR) 2022/23 (per week, inclusive of service charges)</b>
1	£168.34	£232.10
2	£178.23	£255.31
3	£188.13	£278.52
4	£193.03	£301.73

Figure 4: Affordable rent levels

- 7.58 In terms of intermediate housing, London Shared Ownership (LSO) and London Living Rent (LLR) are the preferred recognised products. LSO allows a proportion (25% to 75%) of the value of a property to be purchased with rent paid on the remaining share, along with the ability to staircase upto 100% leasehold ownership (available to households on incomes of up to a maximum £90,000).
- 7.59 LLR (available to households on incomes of up to a maximum £60,000) offers discounted rents for Londoners to save a deposit and eventually purchase a property through LSO. As a final affordability safeguard, the rent for any individual home must be at least 20% below its assessed market rent. In addition, London Living Rent benchmarks are capped at £1,400 a month for all homes (inclusive of service charges).

#### *Assessment*

- 7.60 The scheme proposes 38% (by habitable room) affordable housing comprising 40 units out of the 114 overall. Affordable rented and intermediate housing units would be located in the Core A building as shown in Figure 5. Market sale housing units would be located within Core B and C buildings. In regard to affordable rented units, a 50/50 product split would be provided between the LAR and the THLR products, in accordance with the Local Plan. This provision would be secured by S106 legal agreement, subject to approval.



**Figure 5: Residential core locations**

- 7.61 Although a marginal shortfall in affordable rented units was highlighted (44.4% against 45%), this has been assessed against the marginal overprovision of affordable rented habitable rooms at 72% against the policy requirement of 70%. To illustrate the affordable rented provision, in order to achieve 70% (affordable rented proportion target of overall affordable housing provision) of the overall 35% affordable housing required by Fast Track, only 80 habitable rooms or 24 units would need to be delivered. However, the scheme would actually deliver 38% affordable housing comprising of 72% affordable rented housing (27 affordable rented units).
- 7.62 The proposal would deliver 9 additional affordable rented habitable rooms or 3 additional affordable rented units above Fast Track requirements. If the policy target of 45% family-sized affordable rented units was to be calculated based on the 24 unit (35%) requirement, only 11 units would need to be delivered as family units; however, 12 affordable rented units have been provided. For the reasons above, the provision of affordable rented units is considered to be acceptable in accordance with the Development Plan.
- 7.63 In regard to intermediate housing provision, the applicant seeks to facilitate a flexible potential mix of London Shared Ownership, London Living Rent and possibly First Homes, a new discounted market sale product (with prices no higher than £420,000 in London). Officers (with advice from LBTH Housing) acknowledge that 3 and 4-bedroom intermediate units often do not satisfy affordability criteria to be practical to deliver. Two of the 5 x 2-bedroom intermediate homes would be provided as 2B4P units, which would help to facilitate family occupation. During the application process, officers secured an additional 3-bedroom intermediate unit, changed from an oversized 2-bedroom intermediate unit. The intermediate unit provision is less than the policy requirement but this is offset by the increased affordable rented provision.

For the reasons above, the provision of intermediate units is considered to be acceptable in accordance with the Development Plan.

- 7.64 Although there is an underprovision of family-sized units within the market sale tenure, this is considered to be acceptable based on the broader alignment on 1 and 2-bedroom homes across the three tenure types. Furthermore, the scheme would provide an acceptable affordable housing provision.
- 7.65 At 38% affordable housing, the scheme would provide in excess of the 35% required to progress via the Fast Track route stipulated in London Plan policy H6. The scheme would also provide a favourable affordable tenure split in favour of affordable rented units (72%/28%), and the unit mix is considered to be broadly in accordance with policy D.H2. For the reasons above, also following recommendations from LBTH Housing, LBTH Development Viability and the GLA, it is considered that the affordable housing provision is able to progress via the Fast Track route and is acceptable in accordance with the Development Plan. The affordable housing provision would be secured by S106 legal agreement, subject to approval, including an early stage viability review.

#### Accessible Housing

- 7.66 Development Plan policies require 90% of new housing units to meet Building Regulation requirement M4(2) as 'accessible and adaptable dwellings,' and 10% of new housing units to meet Building Regulation requirement M4(3)(2)(a)/(2)(b) as 'wheelchair user dwellings' (designed to be wheelchair adaptable (2a) or wheelchair accessible (2b)). Within the 10% provision, ideally these units should be provided as fully wheelchair accessible (2b), especially within the affordable rented tenure.
- 7.67 All proposed homes would meet the M4(2) 'accessible and adaptable dwellings' standard and 10% of homes would meet the M4(3)(2) 'wheelchair user dwellings' built out standard. The 10% 'wheelchair user' dwellings would be distributed across the three building cores in the development and at different floor levels to enable the greatest choice, size and positioning. With this approach, the applicant has sought to ensure that wheelchair units are not concentrated in a particular location.
- 7.68 12 of 114 (10.5%) residential units overall would be 'wheelchair user' in accordance with the Development Plan. 4 of 27 (14.8%) affordable rented dwellings within the Core A building would be 'wheelchair accessible' units – these would all be 3b5p family units. 1 of 13 (7.7%) intermediate dwellings within the Core A building would be a 'wheelchair adaptable' unit – this would be a 2b3p unit. 7 of 74 (9.5%) market sale units within the Core B building would be 'wheelchair adaptable' units consisting of all 2b4p units. 6 accessible (Blue Badge) car parking spaces would be provided. All 4 of the affordable rented wheelchair dwellings would be allocated a Blue Badge parking space.
- 7.69 The LBTH Housing (Occupational Therapist) team has reviewed the proposed wheelchair units within the social rented part of the Detailed component and has provided detailed comments on internal layouts. The provision of two lifts throughout the development and from the car park is noted and welcomed. The provision of the 4 x family-sized affordable rented units as 'wheelchair accessible' is another significant positive of the proposed scheme. Full details of layouts for the 4 affordable rented wheelchair accessible dwellings and residential circulation spaces shall be secured by condition, subject to approval.

#### Density

- 7.70 London Plan Policy D4 states that higher density residential developments of over 350 units/hectare should undergo a local borough process of design scrutiny review. The proposal would be approximately 193 units/hectare (114 units/0.59 hectares). The proposed density is



considered acceptable and further discussion around the design aspects and how this meets London Plan requirements is provided in the following design section.

## Quality of Residential Accommodation

### *Internal Space*

- 7.71 Policy D.H3 of the Local Plan requires that new dwellings meet up-to-date space and accessibility standards prescribed within the London Plan with particular regard for minimum internal space standards for unit types, minimum floor to ceiling heights and the provision of 10% 'wheelchair accessible and adaptable housing'. The policy also highlights the requirement that affordable housing should not be of a distinguishable difference in quality.
- 7.72 The 114 residential units would be located at upper floor levels within buildings on the east side of the site. The residential buildings are a T-shaped block fronting The Highway and Pennington Street and a point block on Pennington Street. All proposed units would meet or exceed minimum internal space standards in regard to floor area and floor-to-ceiling heights.
- 7.73 Affordable rented and intermediate homes would be primarily accessed from The Highway (core A). Market sale units would be primarily accessed from entrances (cores B and C) from Pennington Street. All units would be able to access via each entrance allowing a mixed and balanced community. All cores would be provided with two lifts with direct access to the basement accessible car park. Each core would also have access to its own refuse and cycle stores in the basement.

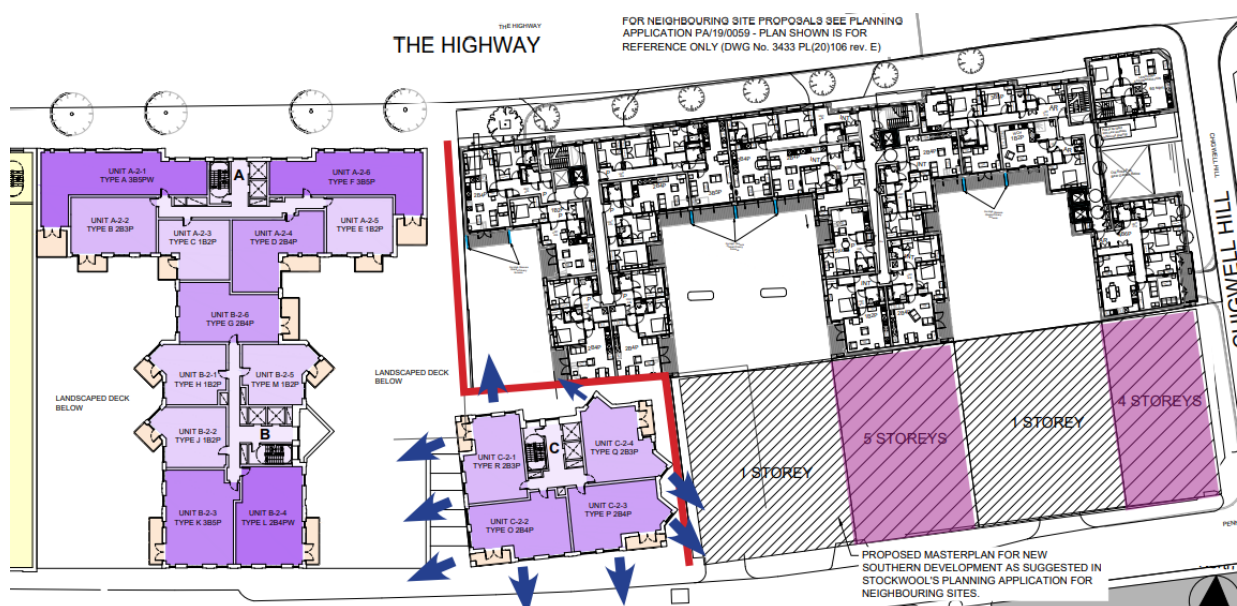


Figure 6: Relationship with neighbouring development sites to east

- 7.74 In regard to outlook (illustrated in Figure 6), 66% of residential units would benefit from dual aspect outlook. Importantly, none of the proposed single aspect units would be solely north-facing over The Highway (where the affordable housing is located). Single aspect units within the core B building (market housing block) have been given oriel windows to introduce some increased aspect. 52% of the affordable units would benefit from dual aspect outlook. The distance between west-facing windows of the core B building and the flank wall of the proposed self-storage building would be 15m which would be adequate separation and no windows on this side of the self-storage building. The distance between east-facing windows of the core B building and west-facing windows in core C buildings would be 18m which would be acceptable as per Local Plan guidance.

- 7.75 As shown on Figure 6, there is a consented development at 102-128 The Highway with residential units at upper floor levels to the north of the core C building and to the west of the core A building. North-facing windows of the core C building would have more than an 18m separation to consented residential windows at 102-128 The Highway although there could be some oblique potential mutual overlooking. Some windows within the core C building have been angled so they do not directly rely on outlook from neighbouring sites – these homes would also be dual outlook and it as such it is concluded that they would not unduly prejudice neighbouring development sites. The massing and heights shown for the site to the east of the core C building (120-132 Pennington Street) are only indicative.

#### *Internal Daylight and Sunlight*

- 7.76 Policy D.DH8 requires the protection of the amenity of future residents and occupants by ensuring adequate levels of daylight and sunlight for new residential developments. Guidance relating to daylight and sunlight is contained in the Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight.'
- 7.77 The applicant has provided a Daylight, Sunlight and Overshadowing Report (DSOR), undertaken by GIA. This has been reviewed by an independent consultant, Delva Patman Redler on behalf of the Council. The DSOR provides results for all of the proposed habitable rooms to be created within the proposed development. Results have been provided for ADF daylight, NSL daylight, RDC daylight and APSH sunlight.
- 7.78 The primary technical method of assessment of new build residential accommodation (for planning applications submitted prior to publication of the latest 2022 BRE guidance) in regard to daylight is through calculating the average daylight factor (ADF). ADF refers to the average percentage of daylight flux in a room against an external unobstructed plane. BRE guidance specifies the target levels of 2% for kitchens, 1.5% for living rooms and 1% for bedrooms. With regard to the ADF assessment, the DSOR has assumed a best-case scenario with the adoption of light internal finishes for the calculations and the notional truncation of LKDs (some open-plan LKDs have been notionally truncated to exclude the kitchen area at the back of the room, effectively treating it as a non-day-lit internalised room, and the remaining living/dining area has been assessed against the living room target of 1.5%).
- 7.79 No sky line (NSL) refers to the percentage of the room with a view of the sky from a working plane at desk height. BRE recommends the NSL to be at least 80% for the room to guarantee satisfactory daylight uniformity. Room depth criterion (RDC) defines adequate room proportions that enable good distribution of light – it applies to rooms lit by windows in one wall only.
- 7.80 With regard to sunlight, the BRE guidance states that in general, a dwelling which has a particular requirement for sunlight will receive reasonable sunlight if at least one main window faces within 90 degrees due south and the centre of one window to a main living room can receive 25% annual probably sunlight hours (APSH), including at least 5% annual probably sunlight hours in the winter months (WPSH) between 21 Sept and 21 March.
- 7.81 The DSOR shows that 241 (74%) proposed habitable rooms would meet or exceed the ADF daylight levels recommended by BRE; 203 (62%) would satisfy or exceed the minimum recommended NSL target; all applicable rooms would meet the recommended RDC; and 48 (42%) of all 114 living rooms/ living room/kitchen/diners (LKDs) would satisfy or exceed the recommended APSH targets (both annual and winter).
- 7.82 Of the 85 rooms that would not satisfy the recommended minimum ADF targets, 25 are LKDs which would meet the lower target value of 1.5% for living rooms (as opposed to the 2% figure for kitchens) so on balance can be concluded achieve adequate daylight. 3 additional rooms would achieve an ADF of 1.3%-1.4% and as such are marginal failures and therefore also



considered acceptable. The remaining 24 rooms are located on lower floors and/or daylight is restricted by building design such as being located in internal corners or obstructed by balconies.

- 7.83 In regard to sunlight, 46 living rooms/LKDs (40%) would meet the BRE recommendation for annual sunlight and 63 (55%) would meet the recommendation for winter sunlight. The predominant reason that rooms would not meet the guidelines is the projecting balconies, which restrict the access of sunlight into the spaces – this is particularly true for those rooms facing mainly north, east or west where sunlight is already limited. This is a common issue, where there is a balance between achieving adequate levels of sunlight as well as the provision of private outdoor amenity. The worst affected rooms would be those in the corners facing the internal courtyard which look west, which would be constrained by projecting balconies and surrounding massing. The balconies themselves serving the affected rooms would generally benefit from better access to direct sunlight.
- 7.84 The two podium courtyard spaces have been assessed in regard to potential overshadowing. In order to comply with BRE guidance, an amenity area should receive more than 50% coverage of sun-on-the-ground for 2 hours on 21 March (spring equinox). The eastern deck would comply with guidance (receiving 52% coverage), but the western deck would not (receiving only 23%). Additional sun exposure assessments have been run on a date of the 21st for the months of March, April, May and June that demonstrate good levels of sunlight during this time. Overall, the overshadowing to private amenity courtyards is considered to be acceptable on balance.
- 7.85 Overall, and with the benefit of advice provided by the Council's appointed independent consultant, although there would be some failures against BRE guidance, on balance the scheme would provide a satisfactory level of adherence to daylight and sunlight guidelines for a dense housing development, as assessed against the relevant BRE guidance.

#### *Amenity Space & Child Play Space*

- 7.86 All residential units would benefit from private outdoor amenity space in the form of balconies or terraces at least 1.5m depth in accordance with policy D.H3. None of these would be located on The Highway side of the site, however a terrace on the seventh floor level would have a side view of The Highway (to the north) but would primarily face to the east.

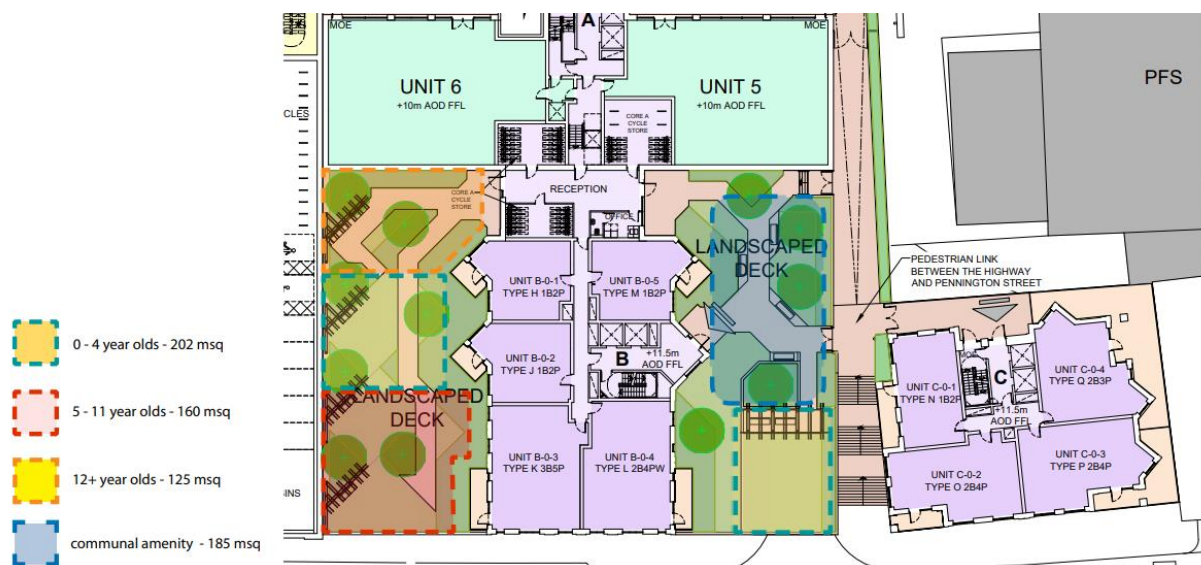


Figure 7: Indicative communal and play space layout

- 7.87 The proposal would provide communal amenity and play spaces at podium level with a total combined landscaped deck area of approximately 900sqm (shown in Figure 7). In relation to

communal amenity space, Policy D.H3 requires the provision of a minimum 50sqm for the first 10 units of a development and a further 1sqm for every additional unit. With the proposed 114 residential units, this equates to a minimum provision requirement of 154sqm across the development – 185sqm has been proposed.

Age Group	No. of Children	Area Required (sqm)	Area Proposed (sqm)
Under 5	19.3	193	202
5 – 11	15.5	155	160
12+	12.4	124	125
<b>Total</b>	<b>47.2</b>	<b>472</b>	<b>487</b>

**Figure 8: Child yield and play space for the development**

- 7.88 Policy D.H3 requires major developments to provide a minimum of 10sqm of high quality play space for each child, calculated using the LBTH ‘child yield’ calculator. The development would generate a child yield of 47 total children, which requires a minimum 472sqm of play space according to the Tower Hamlets calculator (shown in Figure 8). The play space would be located within the podium courtyard (as shown in Figure 7) and could be accessed directly from all tenures. Resident of the core C building (market sale) would have to walk across the pedestrian link to access communal amenity and play space.
- 7.89 Residents from both the market and affordable/intermediate tenured units would have shared access to all play and amenity spaces within the development – a condition would be applied to ensure this, subject to approval. Full details of play space layouts, equipment specifications and landscaping would be secured by condition, subject to approval. It is welcomed that all play space (including for older children) would be provided on-site rather than relying on existing, local play areas. Using a high proportion of the courtyard for play space would help to activate this area.

### Noise

- 7.90 In regard to the noise impacts of the replacement nightclub on new homes, this is covered in the ‘Nightclub Impacts’ section. In relation to the impact of other surrounding uses on new homes, a noise impact assessment has been provided by Sharps Acoustics. The LBTH Environmental Health (Noise) team and an external consultant (Vanguardia) have reviewed the application with regard to noise and vibration due to the complexities regarding the existing nightclub on-site. A baseline noise survey has been undertaken by the applicant in order to determine the existing noise conditions at the application site, such as road traffic from The Highway.
- 7.91 Overall, the Council’s appointed noise consultant is satisfied with the noise mitigation measures (such as insulation, glazing and soundproofing) proposed and that internal residential units would achieve acceptable noise levels, subject to imposition of conditions in relation to: post-completion noise testing to ensure internal noise levels are met; noise verification report in regard to protection against external noise sources; a condition managing plant noise compliance levels.

### *Conclusion*

- 7.92 Overall, it is considered that the proposal would provide a sufficiently high quality of residential accommodation.

## HERITAGE AND DESIGN

- 7.93 Development Plan policies requires developments to meet the highest standards of design, layout and construction which respects and positively responds to its context, townscape, landscape and public realm at different spatial scales. Developments should be of an appropriate scale, height, mass, bulk and form in its site and context. Policy S.DH3 requires that the significance of heritage assets are preserved in any development scheme.
- 7.94 Policy D.DH2 of the Local Plan (2020) requires development to contribute to improving and enhancing connectivity, permeability and legibility across the borough. Developments should optimise active frontages towards public streets and spaces, provide clear definition of building frontage and massing and allow connection and continuity of pedestrian desire lines at a human scale.
- 7.95 Policy S.DH1 of the Local Plan requires development to be of the highest standard which respond an responds positively to its local context, is appropriate in scale height, and form, complements streetscape rhythm and complements its surroundings. London Plan policy D3 advocates a design-led approach to optimising the capacity of development sites, taking into consideration form, layout, experience, quality and character.

### Height, Scale and Massing

- 7.96 The application proposes the construction of a part-7, part-8 storey (23.7m to 27.9m height from street level on The Highway) residential building with flat roof on The Highway (shown in Figure 10) alongside a part-5 storey, part-8 storey (16.1m to 23.8m height from street level on The Highway) pitched roof self-storage building on The Highway at the corner with Artichoke Hill.



Figure 10: The Highway elevation with neighbouring consented development (PA/19/00559) to the east/ left



Figure 11: Pennington Street elevation with consented development (under PA/19/00559) to the far-right





7.101 As already stated above, the LPA does not consider that the proposal would constitute tall building development as no part of the buildings would be 30m above the ground level directly beneath it, and so it would not need to be assessed against the criteria of policy D.DH6, part 3. Overall, the proposed development is considered to be acceptable in regard to height, scale and massing against the existing and emerging context, in accordance with the Development Plan.

#### Impact on Heritage Assets

7.102 Development Plan policies require proposals affecting heritage assets and their settings to conserve their significance by being sympathetic to their form, scale, materials and architectural detail. Policy S.DH3 requires development to protect and enhance the borough's conservation areas including their setting.

#### *Grade I listed St George in the East and conservation area*

7.103 In relation to the heritage assets located to the north-east, the proposed development would be visible within the setting of the Grade I Listed St George in the East (124m to the north-east) and its Grade II listed wall, however it would appear subservient to these assets given the distance from the site and vegetation located between the scheme and the heritage assets (shown in Figure 13). The presence of the proposal behind the treeline whilst marginally increasing the sense of enclosure to the church, would not impact in any significant way on the sky-space around the church. Given the separation distance, it is considered that the proposal would preserve the settings and those features of special architectural or historic interest which the listed buildings possess in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.



Figure 13: View from the north-east (proposed development in red wireline) in relation to St George in the East church



7.104 The proposal would be visible from eastern views within the conservation area, including behind The Old Rose public house (55m to the north-east) which is considered to be a non-designated heritage asset. The carefully considered design of the proposals, separation distance and acceptable building design, would ensure that no harm would result to the setting of the public house or to the setting of the conservation area more generally. It is worth noting that the consented development at 102-126 & 128 The Highway which includes The Old Rose would introduce massing directly adjacent to the public house which would significantly reduce the relationship with the proposed development. It is considered that the proposed development would preserve the character and appearance of the conservation area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

*Grade I listed Tobacco Dock/ Grade II listed Pennington Street Warehouses*

- 7.105 As a result of its scale and height, the proposed scheme would have an increased presence within the settings of the Grade II listed Pennington Street Warehouses, located directly across Pennington Street (less than 10m away) to the south, and Grade I listed Tobacco Dock to the south-east (51m away). However, the architecture and materials are complementary and would integrate well within the setting of the two assets.
- 7.106 The scale and detailed design of the building would introduce some balance to Pennington Street without distracting from the heritage assets when viewed from the east. The proposal would not result in any notable loss of views of the two heritage assets from The Highway. The proposed development would be slightly visible above the roofscape of Tobacco Dock.

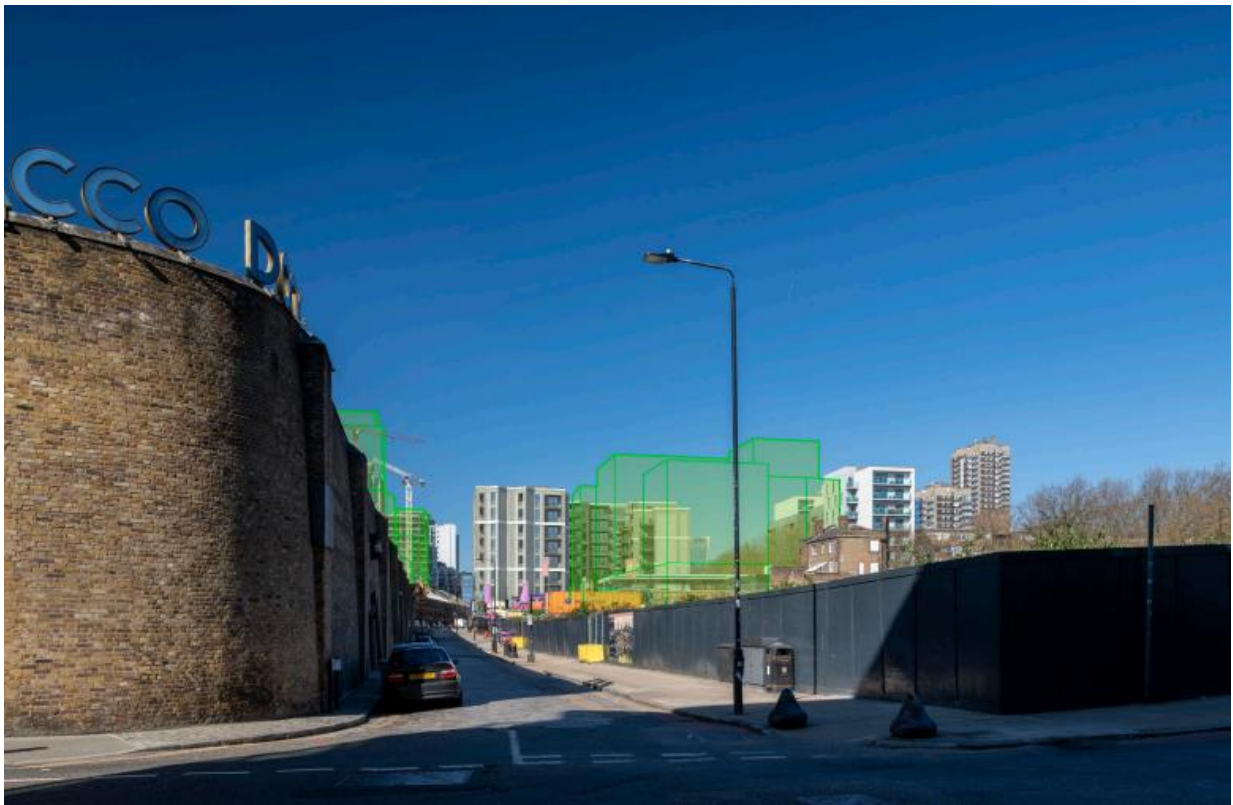


Figure 14: View from the east (proposed development model to the centre) in relation to Tobacco Dock with consented developments in green

- 7.107 Overall, it is considered that the proposal would preserve the settings or any features of special architectural or historic interest which the listed buildings possess in accordance with Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990.

### *Wiltons Music Hall Conservation Area*

- 7.108 The proposed development would be visible within the wider setting of the conservation area (170m to the north-west). The scheme would appear relatively low within the background and of a similar scale to existing buildings on The Highway. As such, it is considered that the proposal would have a neutral impact on these assets, and so would not cause harm to their setting and would preserve the character and appearance of the conservation area in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

### *Summary*

- 7.109 Having regard to impacts outlined above, in the context of the NPPF (paras 199-202), it is considered that any harm to the setting of heritage assets is negligible when balanced against the enhancement that the proposals will offer as a result of the well-considered design and the positive impact of the repair of the streetscape on the setting of heritage assets within the townscape of Pennington Street and The Highway. Overall, officers consider that the proposed development would preserve the character and appearance of surrounding conservation areas in accordance with Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) and would also preserve the setting of listed buildings in accordance with Section 66 of Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended).

### Layout, Landscaping and Public Realm

- 7.110 Along The Highway, the development would include predominantly active commercial unit frontages along with residential and servicing entrances and the pedestrian route to the south towards Pennington Street (shown in Figure 14 to the right).

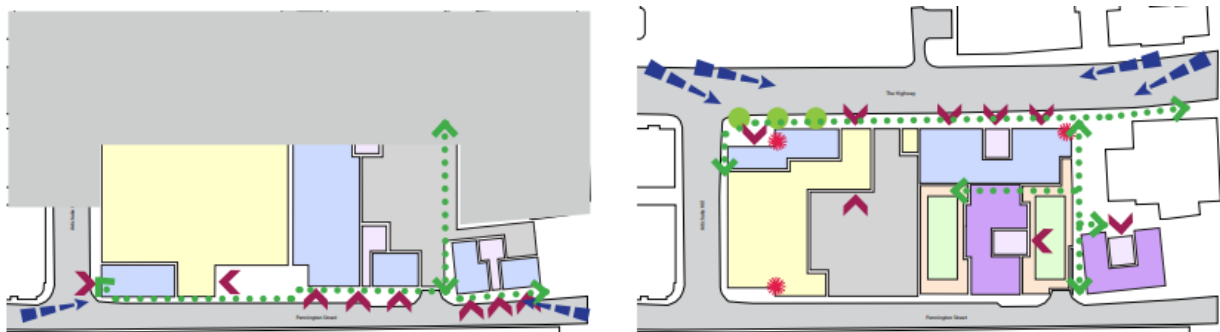


Figure 14: Active frontages on Pennington Street (left) and The Highway (right) with building entrances (red arrows) and pedestrian routes (green dotted arrows)

- 7.111 Along Pennington Street (shown in Figure 14 to the left), the development would include predominantly active commercial unit frontages, the nightclub/ photography and filming studios entrance along with residential and servicing entrances and the pedestrian route to the north towards The Highway.
- 7.112 The proposal would include an improved public realm facing The Highway with the removal of one of the two crossovers, and 4 new trees along with the retention of the 3 existing trees. The footway available would be extended underneath a colonnade towards the active frontages of commercial units 5 and 6. At the corner with Artichoke Hill, the building line would be set back to allow a more generous spacing than existing.
- 7.113 The new pedestrian link at the east of the proposed development would be level with The Highway and include steps down towards Pennington Street. The route would be gated to the north and south with gates closed only when the nightclub is in use (typically 10pm to 7am on

Friday and Saturday) in order to aid the management of patrons. The route would be overlooked from side-facing residential windows and terraces of the development on both sides and would run alongside the gated private courtyard. A window from commercial unit 5 would also be open to the pedestrian link. The new north-south pedestrian link would help to improve and enhance legibility, permeability and connectivity within the area and address severance on The Highway, in accordance with objectives and development principles of the Local Plan's 'Vision for City Fringe.'

- 7.114 Overall, it is considered that the proposed layout would allow provide a good amount of active frontage and passive surveillance, including improved public realm and permeability around the site. Full details of hard and soft landscaping features would be secured by condition, subject to approval. For the reasons above, the proposed layout is considered to accord with Development Plan.

#### Architecture and Materials

- 7.115 The proposed main facing materials around the site would be brickwork for both the self-storage and the residential buildings on The Highway and Pennington Street. The elevation design and fenestration is considered to be rational and attractive for both elements. The self-storage building utilises more of a warehouse aesthetic with larger openings and coloured, obscured glazing towards Artichoke Hill.



Figure 15: Proposed view looking west on Pennington Street

- 7.116 The residential building (shown in Figure 15) would include buff blend brickwork, PPC grey aluminium framed windows, copper mid coloured PVDF aluminium cassette balcony balustrades and sonar shades along with ivory white GRC/ reconstituted stone banding and coping. A number of different brick colour combinations have been shown on The Highway-facing building.



- 7.117 The self-storage building (shown on Figure 16) would include brown stock brickwork, grey metal standing seam roofing, dark-grey brickwork ground floor building base, PPC aluminium rainwater downpipes, PPC aluminium framed curtain wall with insulate infill spandrels, grey glazed louvre smoke vents, PPC metal doors and louvres.
- 7.118 1:20 sections are required to demonstrate the details of both brickwork and GRC/ reconstituted stone, opening reveals, brick coursing detail, plinth element, balcony, balustrade, soffit, parapet, signage, entrances/ external doors and gates. Full details and samples of external materials would be secured by condition, subject to approval. In order to ensure that design quality is maintained throughout the construction process, the Council would also seek to ensure that the scheme architect is retained or that a design certifier is appointed – this would be secured by s106 legal agreement, subject to approval. Conditions ensuring clear glazing for ground floor commercial uses, and restrictions of aerials, pipework, external plant and fencing would be required, subject to approval. Overall, the materials and overall appearance of the building are considered to be consistent with guidance within the Development Plan.



Figure 16: Proposed view looking east on The Highway

### Fire Safety

- 7.119 Policy D12 of the London Plan seeks to ensure that development proposals achieve the highest standards of fire safety, beyond what is covered by Part B of the Building Regulations, reducing risk to life, minimising the risk of fire spread, and providing suitable and convenient means of escape which all building users can have confidence in, considering issues of fire safety before building control application stage, taking into account the diversity of and likely behaviour of the population as a whole.
- 7.120 The GLA considered the submitted fire statements and requested clarification and amendments, which were subsequently received and reviewed. The GLA concluded that the fire statement should be secured by condition, subject to approval, in order to ensure that the development fully meets the requirements of policy D12.

- 7.121 HSE considered the submitted fire statements and requested clarification and amendments, which were subsequently received and reviewed – these included alterations to stair cores and an additional stair core for the nightclub to The Highway. HSE are content with the amended plans and documents. Officers raise no concerns from a fire safety perspective at the planning stage, subject to the recommended conditions above.

#### Designing-out Crime

- 7.122 Development Plan policies seek to ensure that new development would result in a safer environment for future residents and visitor to the site and reduce the fear of crime. The application has been reviewed by the Designing-out Crime Officer from the Metropolitan Police. Subject to approval, a condition would be required to deliver a Secure by Design scheme and achieve a Certificate of Compliance from the Metropolitan Police.

#### Archaeology

- 7.123 Policy S.DH3 states that *“where the development includes or has the potential to include heritage assets with archaeological interest, an appropriate desk-based assessment and, where necessary, field evaluation will be required. Where harm can be fully justified, we will require archaeological excavation and/or recording as appropriate, followed by analysis and publication of the results.”*
- 7.124 The proposed development has been assessed in relation to its potential impact upon any archaeological remains that may exist at the site. The site lies close to the known extent of the important Roman commercial site that stood just to the west around Wapping Lane and is also crossed by the projected line of the Civil War defences. The nearby Roman bathhouse under the north end of Wapping Lane was recently scheduled as an ancient monument.
- 7.125 Roman archaeology at the site is likely to survive but on current understanding it would survive beneath the planned new slab level and would likely be harmed by piling for foundations and other aspects of the scheme; elements which could be managed by a condition. Later archaeological remains would be harmed by the bulk of the development but are of a significance that can also be managed by a condition. Subject to approval, conditions would be required to secure foundation design and a construction method statement along with stage 1/ stage 2 written schemes of investigation.

#### **NEIGHBOURING AMENITY**

- 7.126 Development Plan policies seek to protect and where possible enhance neighbour amenity by safeguarding privacy, avoiding unreasonable levels of overlooking, sense of enclosure, outlook, noise, light, odour, fumes, dust and ensuring acceptable daylight and sunlight conditions.

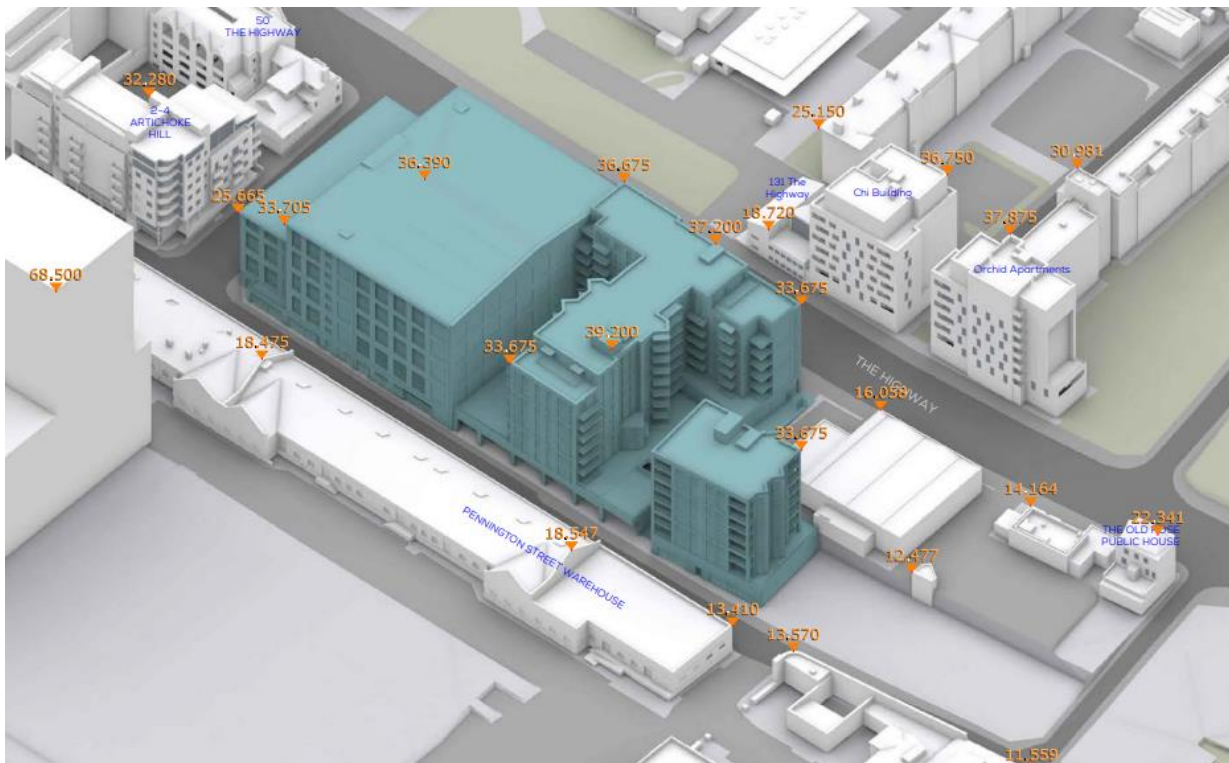


Figure 17: Proposed development in relation to neighbouring residential buildings

#### Outlook, Overbearingness, Sense of Enclosure and Privacy

- 7.127 In terms of height, scale and massing, it is considered that the proposed development achieves an acceptable relationship with the surrounding, existing built environment. The proposal would result in there being a taller building on the site in relation to nearby residential buildings shown on Figure 17, namely 2-4 Artichoke Hill, Chi Building, Orchid Apartments, 131 The Highway and 50 The Highway which would result in some minor loss of outlook and slight increased sense of enclosure; however it should be understood that these buildings have benefitted from looking over an underutilised site.
- 7.128 In relation to 2-4 Artichoke Hill (an 8 storey predominantly residential building across Artichoke Hill to the west), the proposed development at this part of the site would not be as tall as the neighbouring residential building. The separation distance between the two buildings would be over 15m, in line with the existing building line on the application site. The proposed windows on the west side of the site would serve non-residential rooms (the self-storage building) and would be obscurely glazed (this would need to be secured by condition, subject to approval). The proposal would not result in loss of privacy nor result in an unacceptable loss of outlook, increased sense of enclosure or overbearingness to 2-4 Artichoke Hill.
- 7.129 In relation to Chi Buildings and Orchid Apartments, 9 storey predominantly residential buildings located across The Highway to the north-east, the proposed development would be of a similar height. The separation distance between the buildings would be over 22m, in excess of the 18m guidelines stipulated by policy D.DH8 in relation to facing habitable room windows. The proposal would not give rise to any issues to these existing developments in relation to loss of privacy, loss of outlook, increased sense of enclosure or overbearingness.
- 7.130 The Strangers Rest Evangelical Church, 131 The Highway (3 storey building) is located across The Highway to the west of Chi Buildings and Orchid Apartments. It is understood that this building contains a church with ancillary residential accommodation above ground floor. Similar to Chi Buildings and Orchid Apartments, the separation distance between the buildings would be over 22m, in excess of the 18m guidelines stipulated by policy D.DH8. in relation to

facing habitable room windows and as such the proposal would not give rise to amenity issues to these properties.

- 7.131 The former Artichoke public house at 50 The Highway is a 3 storey building across Artichoke Hill which appears to be a hot food takeaway with 2 residential units at upper floor levels. The proposed development at this part of the site would be taller and bulkier, resulting in some loss of outlook and increased sense of enclosure. The separation distance between the two buildings would be over 15m, in line with the existing building line on the application site. However, there would also be increased separation as the proposed development would provide a setback frontage. The proposed windows on the west side of the site would serve non-residential rooms (the self-storage building) and would be obscurely glazed (this would need to be secured by condition, subject to approval The proposal would give rise to loss of privacy nor introduce unacceptable loss of outlook, increased sense of enclosure or overbearingness.
- 7.132 In relation to neighbouring potential development sites, the scheme has been designed taking into consideration the consented plans at 102-126 & 128 The Highway (shown to the east of the application site on The Highway on Figure 17). The proposed development would be over 30m away from west-facing windows and over 21m away from south-facing windows from 102-126 & 128 The Highway. There would be some potential oblique overlooking although this would not significantly compromise outlook from the neighbouring site. An angled bay window has been incorporated so that proposed units would not look out towards a flank wall of the neighbouring consented development. Any proposed units which look over this neighbouring site would also benefit from dual aspect outlook with windows facing away from the development site and so would not rely on or prejudice amenity of the neighbouring site.
- 7.133 In relation to the largely vacant site at 120-132 Pennington Street, the proposed development would incorporate 2 angled bay windows so that proposed windows would not directly overlook or rely on amenity from the neighbouring site to the east. There would be some potential oblique overlooking although this would not significantly compromise outlook from the neighbouring site. Any proposed units which look over this neighbouring site would also benefit from dual aspect outlook with windows facing away from the development site and so would not rely on or prejudice amenity of the neighbouring site. The Council also facilitated a meeting between the developers of both sites which led to minor design changes to ensure that future developments can co-exist in the best possible way.
- 7.134 Overall, the proposed development is considered to provide an acceptable relationship in respect of separation distances, outlook, sense of enclosure, privacy and overlooking to nearby residential units and potential development sites.

#### Daylight, Sunlight & Overshadowing

##### *Guidance*

- 7.135 Policy D.DH8 seeks to ensure that development must not result in an unacceptable material deterioration of the sunlight and daylight conditions of surrounding development and must not result in an unacceptable level of overshadowing to surrounding open space and private outdoor space. Supporting text of the policy states that a daylight and sunlight assessment, following the most recent version of the Building Research Establishment (BRE) handbook 'Site Layout Planning for Daylight and Sunlight' (2011) ('BRE handbook') must accompany all major planning applications.
- 7.136 The BRE handbook provides guidance on daylight and sunlight matters. It is important to note, however, that this document is a guide whose stated aim *'is to help rather than constrain the designer.'* The BRE handbook states that for calculating daylight to neighbouring properties

affected by a proposed development, vertical sky component (VSC) and daylight distribution (NSL – no sky line) assessments are to be undertaken.

- 7.137 VSC is a daylight measure that represents the amount of visible sky that can be seen from the mid-point of a window, from over and around an obstruction in front of the window. That area of visible sky is expressed as a percentage of an unobstructed hemisphere of sky, and, therefore, represents the amount of daylight available for that particular window; however it does not take into account the number or sizes of windows to a room, room dimensions or the properties of the window itself. The BRE handbook suggests that a window should retain at least 27% VSC or retain at least 80% of the pre-development VSC value to ensure sufficient daylight is still reaching windows. The 27% VSC value is a target applied for all building typologies and urban environments.
- 7.138 No-sky line (NSL) is a separate daylight measure assessing the distribution of diffuse daylight within a room, otherwise known as daylight distribution (DD). NSL assesses where daylight falls within the room at the working plane (850mm above floor level in houses). Daylight distribution assessment is only recommended by the BRE Report where room layouts are known, however they can also be useful when based on estimated layouts. The NSL simply follows the division between those parts of a room that can receive some direct skylight and those that cannot. Where large parts of the working plane lie beyond the NSL, the internal natural lighting conditions will be poor regardless of the VSC value, and where there is significant movement in the position of the NSL contour following a development, the impact on internal amenity can be significant.
- 7.139 When comparing the NSL for existing buildings against that proposed following development, BRE guidelines state that if the NSL moves so that the area of the existing room which receives direct skylight is reduced to less than 0.8 times its former value, then this will be noticeable to the occupants, and more of the room will appear poorly lit.
- 7.140 Average daylight factor (ADF) is a measure of the adequacy of diffuse daylight within a room, and accounts for factors such as the size of a window in relation to the size of the room; the reflectance of the walls; and, the nature of the glazing and number of windows. A small room with a large window will be better illuminated by daylight compared to a large room with a small window, and the ADF measure accounts for this. ADF is most appropriately used to assess daylight levels for proposed residential homes, as opposed to existing homes that are occupied.
- 7.141 BRE guidelines confirm that the acceptable minimum ADF target value depends on the room use. That is 1% for a bedroom, 1.5% for a living room and 2% for a family kitchen. In cases where one room serves more than one purpose, the minimum ADF should be that for the room type with the higher value. Notwithstanding this, it could be considered that, in practice, the principal use of rooms designed as a 'living room/kitchen/dining room' is as a living room. Accordingly, it would be reasonable to apply a target of 1.5% to such rooms.
- 7.142 The BRE handbook states that when calculating sunlight to neighbouring properties affected by a proposed development, annual probable sunlight hours (APSH) is a measure of direct sunlight that a given window may expect over a year period. The BRE handbook recommends that in existing buildings, sunlight should be checked for all habitable rooms and conservatories of dwellings if they have a window facing within 90° of due south. The BRE handbook recommends that the APSH received at a given window in the proposed case should be at least 25% of the annual total available, including at least 5% in winter. Where the proposed values fall short of these, and the loss is greater than 4%, then the proposed values should not be less than 0.8 times their previous value in each period.
- 7.143 In terms of overshadowing BRE guidance suggests that for an amenity area, like a garden, to appear sunlit throughout the year, at least 50% of the garden or amenity area should receive 2



hours of sunlight on 21st March (21st March is the equinox month and is the set day for testing overshadowing in accordance with the BRE criteria). If existing open spaces do not meet the above criteria as a result of proposed development, and the area which can receive 2 hours of sun on 21st March reduces by more than 20% of its former value, then the loss of sunlight may be noticeable, representing an adverse impact.

- 7.144 There is no definitive categorisation for impacts that exceed BRE guidelines, however the significance criteria banding within Figure 18 below is used as a guideline when summarising the overall daylight and sunlight effects to surrounding buildings.

<b>Reduction to daylight (VSC &amp; NSL) and Sunlight (APSH &amp; WPSH)</b>	<b>Effect classification</b>
Negligible effect	0% to 20% reduction
Minor adverse effect	20.1% to 30% reduction
Moderate adverse effect	30.1% to 40% reduction
Major adverse effect	more than 40% reduction

Figure 18: Daylight and sunlight effect classification

#### *Assessment*

- 7.145 The application is supported by a Daylight and Sunlight, Impact on Neighbouring Properties Report by GIA. The Council have appointed an independent consultant (Delva Patman Redler) to review the assessment submitted by the applicant.
- 7.146 Officers have had regard to the results of the daylight and sunlight assessments (summarised in Figure 19) – it is noted that a proportion of the windows tested would experience a material deterioration in the amount of daylight and/or sunlight that they receive. The assessment below will focus on these properties.

<b>Properties</b>	<b>Compliance for VSC daylight</b>	<b>Compliance for NSL daylight</b>	<b>Compliance for APSH (sunlight)</b>
50 The Highway	6/7 windows (86%)	3/3 rooms (100%)	2/2 (100%)
131 The Highway	4/4 windows (100%)	4/4 rooms (100%)	2/4 (50%)
2-4 Artichoke Hill	53/79 windows (67%)	26/40 rooms (65%)	33/33 (100%)
Chi Building	25/48 windows (52%)	23/36 rooms (64%)	29/42 (69%)
Orchid Apartments	46/46 windows (100%)	32/32 rooms (100%)	38/38 (100%)

Figure 19: Daylight overall effects on neighbouring buildings

#### *- 2-4 Artichoke Hill*

- 7.147 With the proposed development in place, 53 of 79 windows tested would meet BRE guidance for changes in VSC daylight received. Of the remaining 26 windows, 6 would see a minor adverse impact, 7 a moderate adverse and 13 a major adverse impact. 12 of the failures would have retained VSC of over 15. With the proposed development in place, 26 of the 40

rooms would meet the BRE guidance for NSL daylight. Of the remaining 14 windows, 2 would see a minor adverse, 4 a moderate adverse and 8 a major adverse impact. 7 windows which fail VSC daylight would be served by rooms which pass for NSL daylight.

- 7.148 In regard to sunlight, for the 33 windows tested facing within 90° of due south, these would all be BRE compliant.
- 7.149 The most serious failures are found on east-facing part of the building under the overhanging balconies and portions of the building. Figure 20 (from planning application reference PA/20/02418) shows typical floor plan layouts for 2-4 Artichoke Hill including window and balcony positions. This indicates 3 flats on each floor facing the application site with 2 benefitting from dual aspect outlook including windows and rooms not facing the development site. The plan also show that 2-4 Artichoke Hill contains some live/work units at second floor level although it is understood that the other 44 units in the building are solely residential.
- 7.150 A number of windows in this property are served by overhanging balconies. It is accepted in the BRE handbook that existing windows with balconies above them typically receive less daylight because the balcony cuts out light from the top part of the sky; therefore even a modest proposed development set opposite may result in a large relative impact on daylight or sunlight.
- 7.151 An additional no balcony assessment that was undertaken demonstrates that there would be improvements to the results, with those that fall below experiencing a lesser reduction. There would still be transgressions, demonstrating that the balconies certainly contribute to the impacts, but they are not the main factor. An additional mirror massing assessment has been undertaken, implanting a model of 2-4 Artichoke Hill in place of the proposed development to demonstrate the impacts in comparison. The mirror massing model results are generally very similar in terms of impacts to the proposed development, achieving slightly better outcomes in terms of VSC and NSL results but the actual proposal would achieve better APSH outcomes. In summary this mirror testing exercise helps to demonstrates that the proposed massing is considered reasonable in terms of its daylight/sunlight impacts upon 2-4 Artichoke Hill.
- 7.152 Additional, cumulative scenarios of daylight and sunlight assessment have been undertaken as requested. These help to show the impact on neighbouring properties if London Dock, and 102-126 & 128 The Highway consented developments are built out. If the consented development at London Dock was built out, then this would increase the proportion of daylight failures to 2-4 Artichoke Hill however there would still be no sunlight failures.
- 7.153 Overall, the proposal would result in some significant daylight impacts to 2-4 Artichoke Hill. Taking into consideration the retained levels of daylight, negligible impact on sunlight, dual aspect outlook of some impacted units, with some habitable rooms facing away from the development site, along with the separation distance from the development, it is considered that the retained amenity to 2-4 Artichoke Hill would be acceptable on balance, and would not warrant refusal of the scheme, taking into consideration the planning benefits of the scheme.

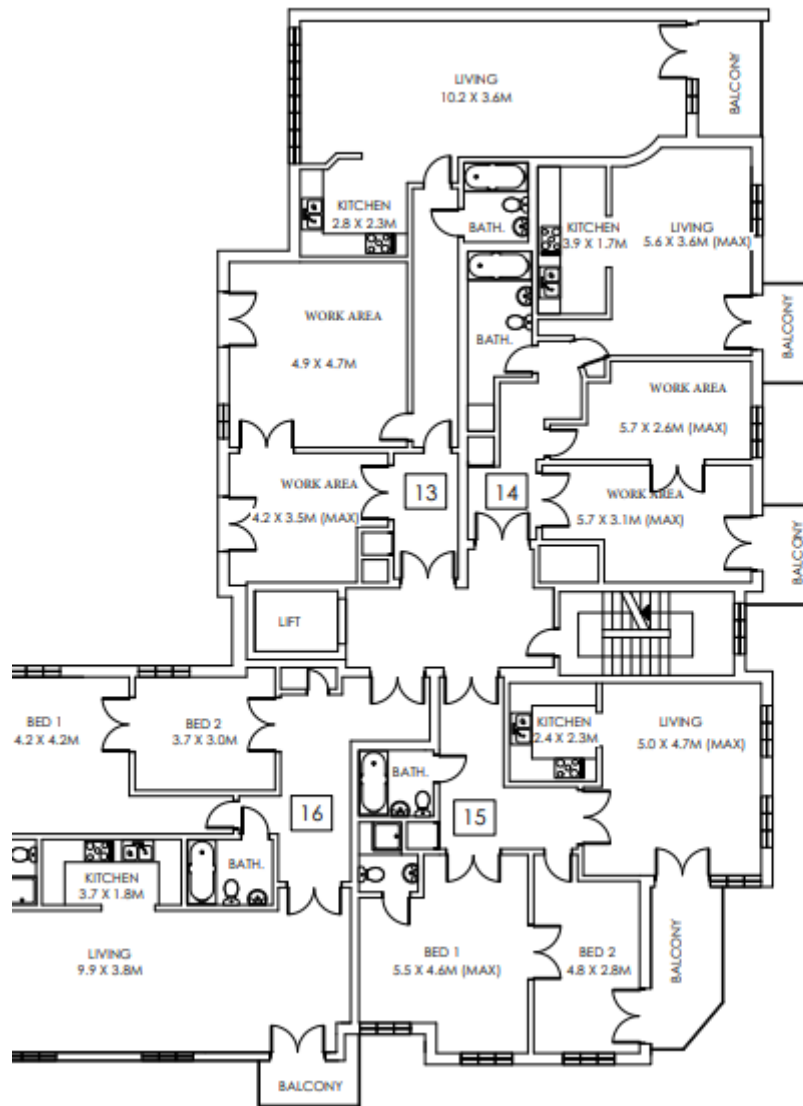


Figure 20: 2-4 Artichoke Hill second floor level facing the proposed development (to the right/ east)

- Chi Building, 54 Crowder Street

- 7.154 With the proposed development in place, 25 of 48 windows tested would meet BRE guidance for VSC daylight. Of the remaining 23 windows, 5 would see a minor adverse, 10 a moderate adverse and 8 a major adverse impact. 7 of the VSC failures would retain VSC levels over 15. With the proposed development in place, 23 of the 36 rooms would meet the BRE guidance for NSL daylight. Of the remaining 13 windows, 2 would see a minor adverse, 1 a moderate adverse and 10 a major adverse impact. 11 windows which fail VSC daylight would be served by rooms which pass for NSL daylight.
- 7.155 A number of windows in this property are served by inset balconies. It is accepted in the BRE handbook that existing windows with balconies above them typically receive less daylight because the balcony cuts out light from the top part of the sky; therefore even a modest proposed development opposite may result in a large relative impact on daylight or sunlight.
- 7.156 In regard to sunlight, for the 42 windows tested facing within 90° of due south, 29 would be BRE compliant with good levels. The majority of failures would be on the first and second floors and inset balconies are considered to be a significant self-obstructing factor.



7.157 The most serious failures are generally found on the first to third floors. W2 and W3 on each floor receive some of the worst results as they directly serve inset balconies. Figure 21 below shows typical floor plan layouts for Chi Buildings including window and balcony positions. This indicates 2 flats on each floor facing the application site which would benefit from dual aspect outlook with secondary windows not facing the development site, and the right-hand side unit (eastern) includes a bedroom not facing the development site.

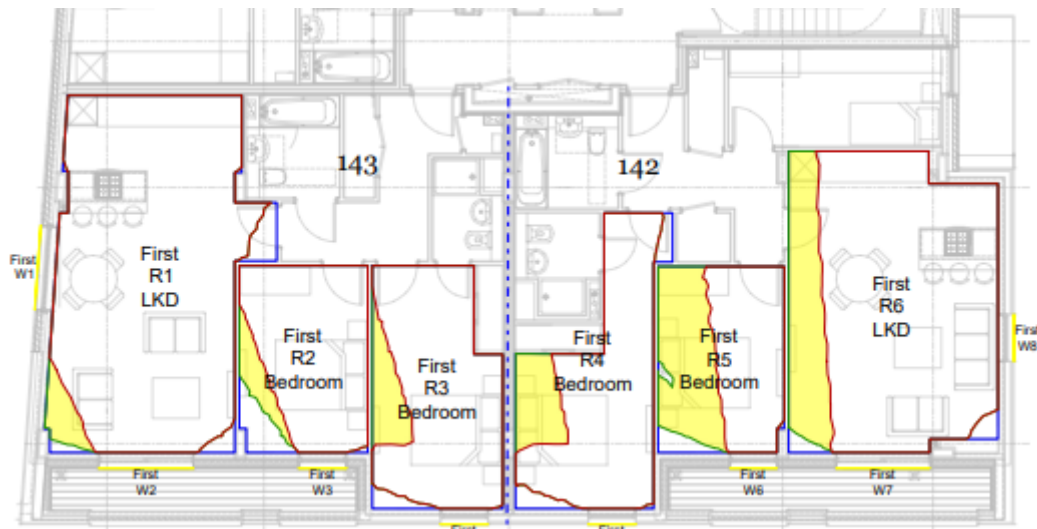


Figure 21: Chi Building typical layout (from neighbouring development (PA/19/00559) submission)

7.158 An additional no balcony assessment demonstrates that there would be improvements to the results, with 34 (71%) satisfying the VSC guidelines and those that fall below experiencing a lesser reduction. There would still be transgressions, demonstrating that the balconies certainly contribute to the impacts, but they are not the main factor. An additional mirror massing assessment has been undertaken, implanting a model of Chi Building in place of the proposed development to demonstrate the impacts in comparison. The mirror massing results generally show that the proposed development would be very similar in VSC and APSH impacts and would often see some improvements against NSL results. This demonstrates that the proposed massing is reasonable in comparison to Chi Building.

7.159 Additional, cumulative scenarios of daylight and sunlight assessment have been undertaken as requested. These help to show on neighbouring properties if London Dock, and 102-126 & 128 The Highway consented developments are built out. The assessments demonstrates that Chi Building would be the most impacted in relation to cumulative development, due to its central position opposite the proposed development and the consented scheme at 102-126 & 128 The Highway. If the consented development at 102-126 & 128 The Highway was built out, in particular, then this would increase the proportion of daylight and sunlight failures to Chi Building.

7.160 Overall, the proposal would result in some significant daylight and sunlight impacts to Chi Building. Taking into consideration the retained levels of daylight and sunlight, dual aspect outlook of impacted units, with some habitable rooms facing away from the development site, along with the substantial separation distance (22m) with the development, it is considered that the retained amenity to Chi Building would be acceptable on balance, and would not warrant refusal of the scheme, taking into consideration the planning benefits of the scheme.

- Orchid Apartments, 57 Crowder Street

7.161 With the proposed development in place, 46 of 46 windows tested would meet BRE guidance for VSC daylight. With the proposed development in place, 32 of the 32 rooms would meet the BRE guidance for NSL daylight.

7.162 In regard to sunlight, 38 of 38 windows tested facing within 90° of due south would be BRE compliant for APSH. Taking into consideration the advice received from the Council's appointed independent consultant, it is considered that this property overall would not experience a material deterioration as a result of the proposed development.

- *50 The Highway*

7.163 With the proposed development in place, 6 of 7 windows tested would meet BRE guidance for VSC daylight. The remaining 1 window would see a minor adverse impact. With the proposed development in place, 3 of 3 rooms would meet the BRE guidance for NSL daylight.

7.164 In regard to sunlight, 2 of 2 windows tested facing within 90° of due south would be BRE compliant for APSH. Taking into consideration the advice received from the Council's appointed independent consultant, it is considered that this property overall would not experience a material deterioration as a result of the proposed development.

- *131 The Highway*

7.165 With the proposed development in place, 4 of 4 windows tested would meet BRE guidance for VSC daylight. With the proposed development in place, 4 of the 4 rooms would meet the BRE guidance for NSL daylight.

7.166 In regard to sunlight, 2 of 4 windows tested facing within 90° of due south would be BRE compliant for APSH. Of the remaining 2 windows, these would both pass for annual sunlight with good levels (41 and 39) but would fail for winter sunlight being below 5 (4 and 2). Taking into consideration the advice received from the Council's appointed independent consultant, it is considered that this property overall would not experience a material deterioration as a result of the proposed development.

- *Future developments*

7.167 The applicant has undertaken daylight and sunlight assessments in relation to impacts on nearby consented developments and potential development sites. Figure 22 shows the surrounding context including nearby consented developments. ADF daylight testing has been undertaken for 120-126 & 128 The Highway (shown in Figure 22 directly to the left/ east of the proposal) showing that with the proposed development in place, 18 of 34 (53%) of windows would be BRE compliant. Although ADF results have worsened for the neighbouring development, the number of failures would not be increased as a result of the proposed development. The self-obstructing nature of balconies for the neighbouring development should also be taken into consideration.

7.168 In relation to London Dock (shown in Figure 22 directly behind/ to the south of the proposal), the blocks which could be affected are only consented in outline at the moment. A VSC daylight façade study has been undertaken showing that the north facing façades of London Dock have the potential to achieve a retained VSC in excess of 20%, which would not give rise to undue concern.

7.169 In order not to unduly prejudice the development potential of the neighbouring, mainly vacant site to the east, 120-132 Pennington Street, some consideration of daylight and sunlight impacts has been requested and provided. A VSC daylight façade analysis has been undertaken implanting hypothetical massing on the site, which was also used in the daylight

and sunlight assessment for the consented development at 102-126 & 128 The Highway. Whilst the massing is hypothetical in nature it does provide an indication of what light levels within a scheme on this site could achieve in VSC terms. The results demonstrate that the façade closest to the proposed development would have the potential to achieve a VSC of 15% or above, which is not a figure that immediately gives grounds to suppose the impacts would be wholly unacceptable, subject to future further analysis around ADFs, room layouts and general daylight distribution.

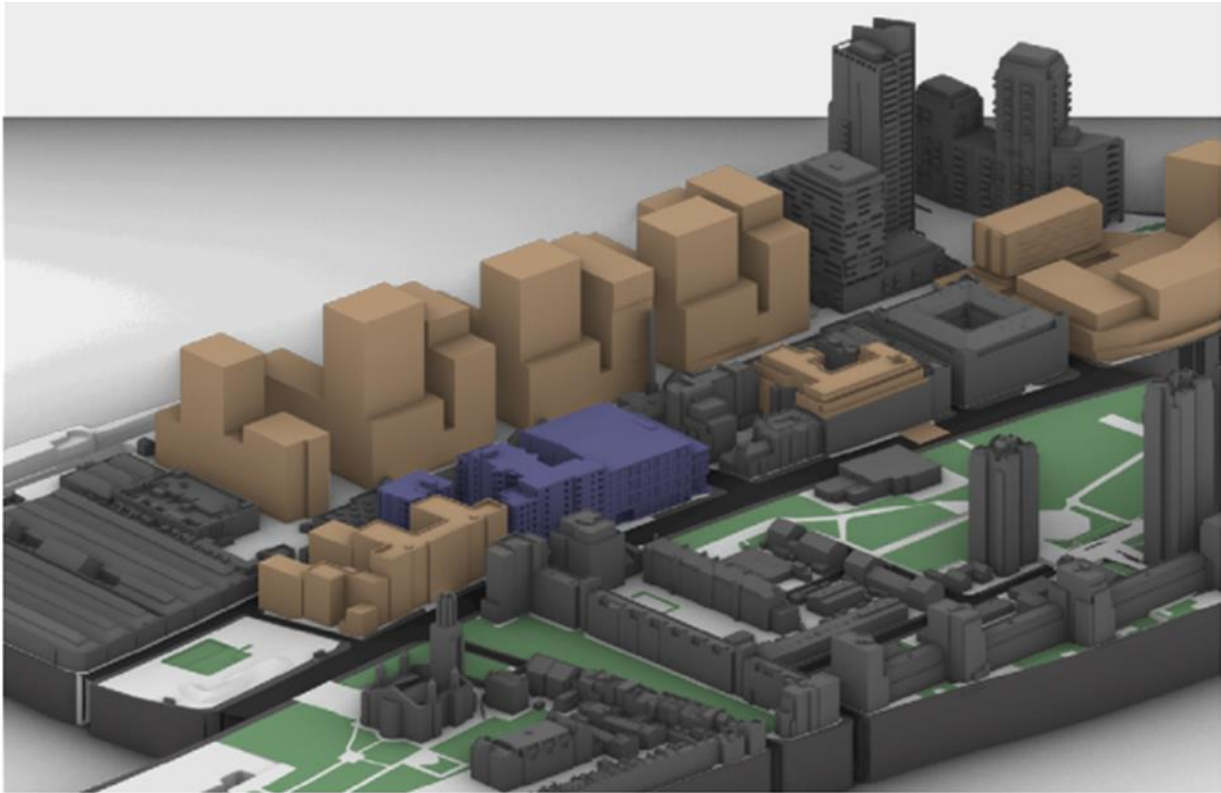


Figure 22: Proposed development in purple with consented development in brown

#### *Overshadowing to Amenity Spaces*

7.170 Officers are satisfied that the proposed development would not give rise to unacceptable impacts on sunlight to public amenity spaces. In order to comply with BRE guidance, an amenity area should receive more than 50% coverage of sun-on-the-ground for 2 hours on 21 March (spring equinox). Swedenborg Gardens (93.5%), a publicly accessible open space would comply with guidance, as would the roof terrace to 131 The Highway (82.2%).

#### *Daylight and Sunlight Conclusion*

7.171 Officers have had regard to the daylight and sunlight results relating to the properties surrounding the proposed development listed above. Whilst the proposal would give rise to adverse effects to nearby residential windows, officers consider these impacts to be acceptable in the context of overall retained amenity. Officers have reached this conclusion based on the factors listed below:

- The proposed development sits within an emerging context where changes to amenity (including daylight and sunlight) experienced by neighbouring properties are expected. The existing site consists of low rise industrial/ employment buildings. The application site is within an Opportunity Area. A commensurate scale of development is expected in line with neighbouring consented development and is

expected to give rise to some degree of adverse impacts, as has been set out above.

- Acceptable separation distances are maintained around the site. The development is generally not considered to significantly adversely impact on outlook, sense of enclosure, overlooking and privacy and as such the adverse amenity impacts in respect of daylight are not coinciding/ being layered upon other adverse neighbouring impacts.
- Retained VSC daylight levels in many cases where there would be failures, are considered to be reasonable, when accounting for the surrounding and emerging urban context.
- Impacts on sunlight are relatively minimal taking into consideration the scale of development.
- In the main the residential properties impacted by the proposed development benefit from dual aspect outlook and as such these homes are liable to have other windows and rooms which remain unaffected.

7.172 Under the chapter titled 'Achieving appropriate densities' in the NPPF, paragraph 123 (c) states that for housing applications, a flexible approach to applying daylight and sunlight policies or guidance should be applied where they would otherwise inhibit an efficient use of the site (as long as the resulting scheme would provide acceptable living standards,

7.173 To conclude, in the context of Policy D.H8, the proposed development would result in material deterioration to the daylight and sunlight levels at neighbouring properties and therefore, result in a level of impact to neighbouring amenity. Nevertheless, in the context of the factors set out above, and taking into consideration the planning benefits offered by the proposed development, officers consider these impacts to be acceptable and that the scheme would comply with paragraph 123 of the NPPF.

#### *Construction Impacts*

7.174 Demolition and construction activities are likely to cause some additional noise and disturbance, additional traffic generation and dust. In accordance with relevant Development Plan policies, a number of conditions are recommended to minimise these impacts, including submission of a Construction Environmental Management and Logistics Plan. Subject to approval, these conditions will control air quality/ dust, noise vibration, construction working hours and waste in order to protect the amenity of neighbouring residents.

#### *Conclusion*

7.175 Although some adverse amenity impacts have been identified, along with mitigations proposed, it is considered that retained amenity for neighbours would be acceptable overall.

### **NIGHTCLUB IMPACTS AND MITIGATION**

7.176 The proposed development involves the provision of a replacement nightclub space. As previously mentioned in the 'Land Use' section, the replacement nightclub is supported by the Development Plan and is considered to be required if the application site is to be redeveloped, taking into consideration the existing nightclub on-site. In regard to the Equality Act (2010), impacts on protected characteristic groups are discussed in the 'Human Rights & Equalities' section and within the appended EqIA.

- 7.177 This section will summarise the existing and replacement nightclub on-site in regard to impacts on new homes within the site and on existing residents outside the site. This section will also discuss the impacts of existing nightclub events from Tobacco Dock (approximately 55m to the south-east) on new homes within the site.
- 7.178 The existing nightclub (E1) is approximately 1,123sqm and has a capacity of 1,600. The existing nightclub layout is shown in Appendix 3.9. Generally, the nightclub runs events between 2200 and 0700, Friday and Saturday; however, the opening hours within the premises license are 0600 to 0030 on Sunday to Thursday and 24 hours on Friday and Saturday.
- 7.179 It is understood that arrival times are staggered from 10pm, when the doors open, through to 2am. There are typically fewer arrivals between 10pm and midnight, with the queue building up towards 1am, then reducing between 1am and 2am. Departures are sparser and more sporadic between 4am and 7am. The headline act typically finishes between 4am and 5am after which more people start to depart. Others stay until the end at 6am and continue to depart up to 7am when the club closes.



Figure 23: Within the existing nightclub (Evening Standard)

- 7.180 Within the original 1999 planning consent for a nightclub on the site, a condition was imposed restricting opening hours so that the space would not be open to the public from 0800 to 1100 and 1400 to 1800 on weekdays but effectively did not restrict opening hours on Friday and Saturday.
- 7.181 It is understood that the existing nightclub operator (E1/ Studio Spaces) has run nightclub events from the site since 2012 in accordance with its premises license. The replacement nightclub would expect to open with hours in accordance with its premises license. As the proposed development involves demolition of the existing nightclub, LBTH Licensing team have advised that the replacement nightclub would be required to apply for a new premises license where relevant restrictions could be imposed.

#### Impact on Residential Units in the Surrounding Area





- 7.186 The proposed replacement nightclub is shown in Figure 24. The main space would be within Unit 1 and there would be a security check/ cloakroom area in Unit 2. Due to the separation distances to nearest residential buildings, it is considered that the impacts of ingress and egress would not significantly adversely impact on neighbouring amenity. Furthermore, the imposition of a Nightclub Travel Management Plan (NTMP) condition, subject to approval, would ensure enforceable controls, which the existing nightclub does not have. The NTMP would formalise the cab access arrangements, drive-through points, stop-off zones, security staff locations, queue management system and smoking area. It is envisaged that security would aid the flow of cab movements.
- 7.187 The existing nightclub relies on the public footway for queuing and smoking areas. The draft Nightclub Travel Management Plan states that the length of the proposed covered queuing area underneath the new colonnade (within the site boundary) is approximately 40m and as a result of the widened footway there would be sufficient space to accommodate two parallel queuing lines providing a total queuing space of 80m (shown on Figure 24). Therefore, it is envisaged that the public footway would be relied upon to a lesser extent than the existing situation. In regard to the smoking area, the existing nightclub relies on the public footway outside the site – the replacement venue would utilise the gated, external smoking area within the site boundary (shown on Figure 24), which is a significant improvement. Full and comprehensive details of the Nightclub Travel Management Plan would be secured via condition.
- 7.188 The LBTH Environmental Health (Noise) team and an independent specialist noise consultant appointed by the Council (Vanguardia) have reviewed the application with regard to noise and vibration impacts on surrounding uses. Based on the carefully engineered design of the nightclub, utilising a ‘box-in-box’ design with enhanced sound insulation for floors and walls, isolation of nightclub walls and ceiling internally, the floor separating the nightclub from the ground floor being built of reinforced concrete slab and constructed to a minimum 1m thickness, along with acoustic lobbies, the proposal would be acceptable, subject to a Nightclub Noise Management Plan (NNMP), specifying details such as noise levels, acoustic lobby management, speaker locations, noise monitoring, noise limiting, queuing management, complaints procedure and resident liaison group, subject to approval.

*Agent of Change Principle (existing nightclub)*

- 7.189 Policy D13 (Agent of Change) of the London Plan places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. It describes how development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them. Furthermore, new noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses.
- 7.190 In light of the above, it should be noted that consent for a nightclub on the site was first obtained in 1999 and there has been a nightclub established within the site context from the early 2000s. From planning history, it appears that the nightclub was in situ prior to residential buildings in the local area (Chi Buildings, Orchid Apartments, Eluna Apartments, 2-4 Artichoke Hill and New Times House) being given planning permission. The agent of change principle suggests that new noise-sensitive development (such as new housing) should adequately protect itself from existing noise-generating uses (such as an existing nightclub). Notwithstanding the above, the proposed replacement nightclub would not significantly adversely impact on existing residential units, for the reasons above.
- 7.191 Further to the above, planning consent was recently granted (July 2022) at the neighbouring BP petrol station/ McDonalds site (102-126 & 128 The Highway) for a mixed use development

containing 80 residential units. The neighbouring consented development shares an adjoining wall with the nightclub and has undertaken an extensive process of abiding by the agent of change principle, agreeing to significant noise testing and mitigation planning conditions and signing a deed of easement legal agreement that allows the existing nightclub to operate with its normal noise levels and to make new residents aware of the situation. Notwithstanding the above, the neighbouring consented development was designed to ensure that internal noise levels would be acceptable for new residential units.

#### Impact on New Residential Units On-Site

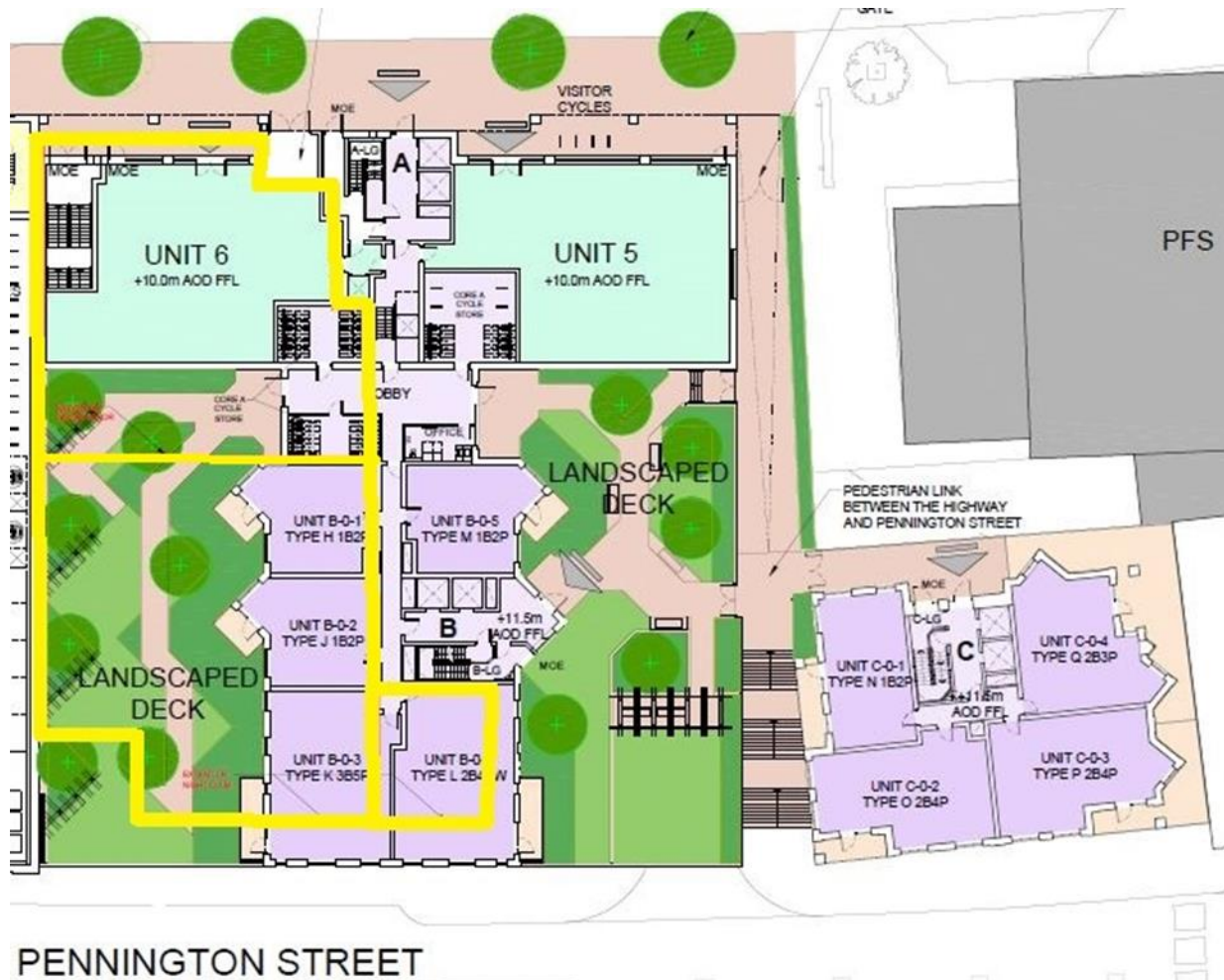


Figure 25: Nightclub (in yellow outline) shown below podium level

- 7.192 Figure 25 shows the podium level of the proposed residential development. The proposed replacement nightclub is shown in yellow outline beneath podium level. The nightclub would be located beneath the landscaped deck, Unit 6 (a flexible commercial unit on The Highway) and 3 market sale residential units. Figure 25 should be viewed in conjunction with Figure 24 which shows the proposed replacement nightclub floor plan.
- 7.193 As previously mentioned above, extensive noise mitigation measures are proposed in order to ensure that proposed residential units would meet policy standards for internal noise levels. The construction would utilise a 'box-in-box' design with enhanced sound insulation for residential floors and walls, isolation of nightclub walls and ceiling internally. The floor separating the nightclub from the ground floor would be built of reinforced concrete slab and constructed to a minimum 1m thickness to curb noise breakout and transmission of vibration.
- 7.194 As confirmed by the Councils appointed noise consultant, structure-borne noise transmission to upper floor residential units is not considered to be a significant issue, due to the extensive



noise and vibration mitigation measures designed within the scheme. The main dancefloor area would not be located beneath residential units however it is understood that noise and vibration mitigation would be sufficient to ensure that new homes above would comply with internal noise standards even if the main dancefloor was moved directly underneath.

- 7.195 The main noise source from the replacement nightclub to new homes on-site is anticipated to be from queuing and smoking on Pennington Street. Although this is mainly planned to take place underneath the colonnade, if residential windows on Pennington Street were opened during peak times of nightclub operation, then noise from smokers could potentially be an issue. The development has been designed so that soundproofing and glazing levels would sufficiently limit such noise from street level. Noise breakout from the main nightclub dance floor would be avoided through provision of acoustic lobby area and use of acoustic doors. This contrasts with amplified music from longer established venues and public houses where the opportunity for fit for purpose acoustic doors and acoustic lobby spaces to night-time venues is not realised. An Overheating Strategy has also been conditioned, subject to approval, and it is understood that residents would not necessarily need to open windows, as new homes would benefit from mechanical ventilation.
- 7.196 It is accepted that the location of the nightclub with residential on upper floor levels and a buffer in-between would be similar to public houses with ancillary accommodation above, and bars or nightclubs on high streets with residential units above; however, in this instance, the co-location would be purpose-built to meet policy requirements relating to safeguarding future residential amenity and bringing forward development that is consistent with agent of change principles.
- 7.197 In regard to potential impacts on new homes on-site, officers (following consultation with LBTH Environmental Health (Noise) and the appointed noise consultant) are satisfied with the noise mitigation measures proposed and that internal residential units would achieve acceptable noise levels, subject to the imposition of the following:
- Post-completion noise testing condition to new residential units to ensure acceptable internal noise levels are met. If acceptable noise levels were not met then additional mitigation measures would need to be submitted and incorporated.
  - Legal agreement with occupants of residential units on-site to make them aware of the existing context of the normal noise levels of the nightclub on-site.

#### Tobacco Dock Impacts

- 7.198 Tobacco Dock (shown in Appendix 2.1) is a large, multi-purpose venue located to the south-east of the corner of Chigwell Hill and Pennington Street, approximately 60m to the south-east. This venue hosts a diverse range of events such as trade fairs, conferences, exhibitions, and large-scale music/ nightclub events with a maximum capacity of 10,000 (upto 15 times per year). It is expected that noise would break out from the venue to the application site during large-scale music/ nightclub events which generally take place from 2pm to 11pm (apart from New Year's Eve when events run through the night/ early morning). Tobacco Dock is listed by DJ Mag as the 82nd best nightclub in the world.

#### *Impacts on New Residential Units On-Site*

- 7.199 The noise impact assessment has assessed the impact of large-scale music events which take place at Tobacco Dock. The data assessed was provided based on the results produced for the neighbouring consented development at 102-126 & 128 The Highway. This report concluded that noise from the venue could be adequately mitigated through detailed design to ensure the proposed residential homes could achieve acceptable internal noise levels during events operating at Tobacco Dock.

- 7.200 Following consultation with the Council's appointed consultant, it is considered that the noise from Tobacco Dock would be relatively infrequent, and with windows closed would be below speech levels and less than typical listening levels for TV and radio. Furthermore, the noise would only occur for a few hours on each occurrence and would cease before 23.00 hrs (i.e. not go on into the late night period). Consequently, noise from events at Tobacco Dock would be unlikely to have significant adverse effects on the health and quality of life of residents of the proposed scheme, and the ordinary use of the dwellings would not be unreasonably materially interfered with by noise from events at Tobacco Dock.
- 7.201 Further to the above, officers have requested that the applicant undertakes live noise testing of a large-scale music/ nightclub event in order to fully inform the noise assessment for the application site. The live testing will inform the drafting of conditions relating to noise mitigation measures, subject to approval.
- 7.202 Overall, the Council's appointed noise consultant is satisfied with the noise mitigation measures proposed and that internal residential units would achieve acceptable noise levels, subject to imposition of conditions in relation to: post-completion noise testing to ensure internal noise levels are acceptable; noise verification report in regard to protection against external noise sources.

*Agent of Change in Relation to Tobacco Dock*

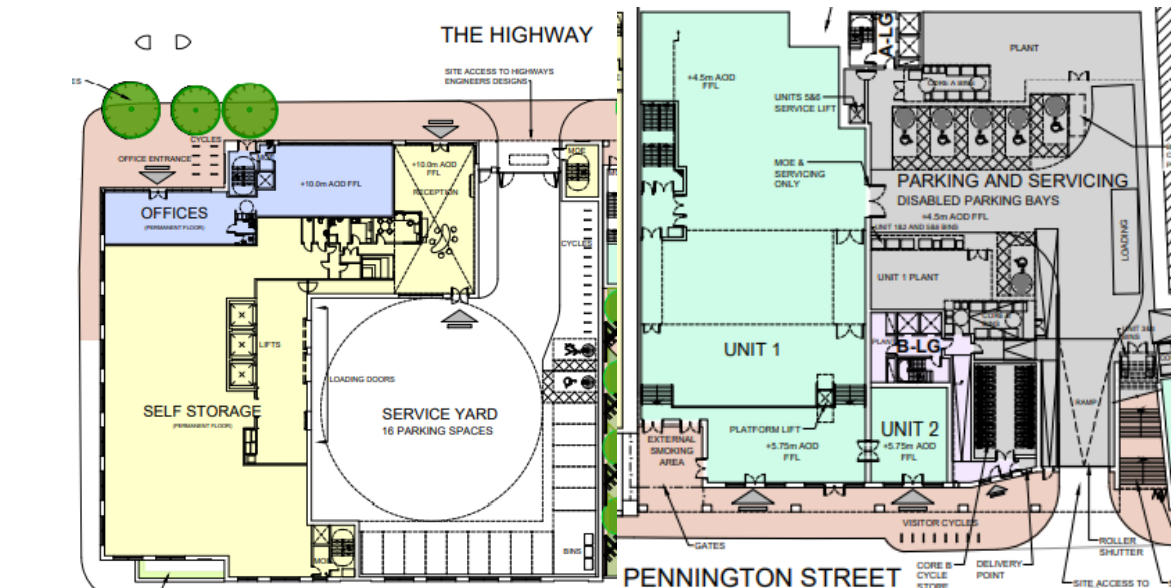
- 7.203 As previously mentioned, policy D13 (Agent of Change) of the London Plan places the responsibility for mitigating impacts from existing noise and other nuisance-generating activities or uses on the proposed new noise-sensitive development. It describes how development should be designed to ensure that established noise and other nuisance-generating uses remain viable and can continue or grow without unreasonable restrictions being placed on them. Furthermore, new noise and other nuisance-generating development proposed close to residential and other noise-sensitive uses should put in place measures to mitigate and manage any noise impacts for neighbouring residents and businesses.
- 7.204 The agent of change principle suggests that new noise-sensitive development (such as new housing) should adequately protect itself from existing noise-generating uses (such as an existing nightclub). Tobacco Dock currently has a certificate of lawfulness for existing use application (PA/22/00916) under consideration for regularisation of the site as an events and conferencing venue. As part of that application under consideration, evidence has been provided to demonstrate that the site has been operating as an events and conferencing venue for 10 years.
- 7.205 The applicant has agreed to enter into a deed of easement legal agreement with Tobacco Dock, which would be appended to the s106 legal agreement, subject to planning consent, in order to protect the normal operation and use of Tobacco Dock events. The new homes on-site would be designed with sufficient noise mitigation measures in order to avoid future occupants living in noisy conditions which give them reason to complain about noise levels within their homes emanating from Tobacco Dock. For the reasons above, it is considered that the proposed development would adequately safeguard the operation of the nearby, existing cultural venue in accordance with London Plan policy D13.

Summary

- 7.206 Overall, subject to the planning conditions and s106 legal obligations outlined above, it is considered that the impact on existing residential units in the local area, impact on residential units on-site and impact on Tobacco Dock, and on proposed residential units in relation to Tobacco Dock would be acceptable and in accordance with Development Plan policies.

## HIGHWAYS AND TRANSPORT

- 7.207 Development Plan policies promote sustainable modes of travel and seek to limit car parking and car use to essential user needs. These policies also seek to secure safe and appropriate servicing arrangements to ensure developments are managed effectively and efficiently.



### Figure 24: Parking and servicing areas

## Car Parking

- 7.208 The proposed parking and servicing areas of the site are shown in Figure 24. The applicant has committed to a 'car free' development for the residential units with the exception of 6 accessible (blue badge) bays with active electric charging points, within the lower ground floor of the east site, accessed from Pennington Street. The 'car free' nature of the residential building is considered acceptable given the good public transport accessibility of the site (PTAL 4). The provision of the development as 'car free' would need to be secured through a legal agreement.
- 7.209 For the self-storage element of the proposal, 16 car parking spaces (including 2 accessible bays with active electric charging points) would be provided within the service yard of the west side of the site, accessed from The Highway. 2 van parking bays have also been provided, accessed from Pennington Street.
- 7.210 Overall, 5% of residential units have been provided with an accessible car parking space, which is in excess of the minimum 3% provision in order to comply with London Plan policy T5. TfL and LBTH Highways are satisfied with the level of car parking provided.
- 7.211 The accessible car parking bays, electric charging points, and a car park management plan would be secured by condition, subject to approval.

## Servicing and Deliveries

- 7.212 The proposed servicing and delivery arrangements for the residential building would be accessed from Pennington Street. For the self-storage building, the service yard would be served from The Highway. Submitted drawings and details demonstrate that relevant delivery,

refuse and service vehicles would adequately manoeuvre in and out of the site. TfL is satisfied with the principle of the servicing strategy.

- 7.213 The applicant would need to enter into a S278 legal agreement with TfL to deliver the servicing access off The Highway. This would need to include a Road Safety Audit. The detailed design of the servicing access as a safe servicing access would need to be secured as a condition, along with a final deliveries and servicing plan, subject to approval.

#### Waste

- 7.214 Development Plan policies require adequate refuse and recycling storage alongside and combined with appropriate management and collection arrangements. LBTH Waste team have reviewed the proposal and are satisfied that subject to securing the final details of the site waste management plan by condition, the proposal would be acceptable.

#### Public Realm

- 7.215 Improvements to the public realm around The Highway, Artichoke Hill and Pennington Street are proposed. On Pennington Street, the proposed building line will be further setback from 120 Pennington Street – visitor cycle parking spaces would be positioned on this side. There would be increased footway with the colonnade space on Pennington Street. The width of footway would be increased to a minimum of 2m on Pennington Street outside the self-storage building. A new pedestrian link would run north-south from Pennington Street to The Highway through the site. At the corner of Pennington Street and Artichoke Hill, the building line would be setback to allow greater spacing. At the corner of Artichoke Hill and The Highway, the building line would be setback to allow greater spacing.
- 7.216 Three existing trees fronting the site to the north-west on The Highway would be retained. Four new trees would be planted to the north-east of the site on The Highway. The detailed approval and delivery of the enhanced public realm including trees will need to be secured by S278 legal agreement with TfL and LBTH Highways. TfL have requested a £335,000 financial contribution in order to upgrade the unsignalized crossing on The Highway by Artichoke Hill, and signalised crossings by Cannon Street Road, Wapping Lane and Dellow Street in particular. The contribution has been accepted by the applicant and would be secured by S106 legal agreement, subject to approval. The upgraded pedestrian crossing on this harsh urban corridor is considered to be a significant public benefit.

#### Cycle Parking

- 7.217 For the residential component of the development, the 3 core A cycle stores (80 long stay spaces) would be located around the lobby at ground floor, in-between the landscaped courtyards. The core B (76 long stay spaces) and core C cycle stores (55 long stay spaces) would be located at lower ground floor level within the servicing area.
- 7.218 Short stay visitor cycle parking stands would be located on Pennington Street (13 Sheffield stands) and The Highway (12 Sheffield stands) to serve commercial and residential components of the development. For the self-storage and office uses, 14 long stay cycle parking spaces would be provided within the service yard. 5 long stay cycle parking spaces would be provided internally to serve staff of the nightclub and flexible commercial units. 5% of cycle parking spaces would be accessible to larger bicycles in accordance with the London Plan.
- 7.219 Cycle parking numbers are considered to satisfy London Plan standards. Full details of long stay and short stay residential and commercial cycle parking would be secured by condition, subject to approval.

#### Trip Generation

- 7.220 The submitted Transport Assessment has considered the total trip generation for both the residential and commercial portions of the development. The TA estimated that the proposal would generate up to 800 trips by sustainable modes during a 12 hour period; which means there is a need to improve local walking/ cycling infrastructure for enhanced safety and accessibility. The upgraded pedestrian crossing and improved public realm, as already described, are therefore considered to be necessary to make the development acceptable, taking into account the increase in pedestrians generated by the proposals. In relation to the nightclub trip generation, this is discussed in the 'Nightclub Impacts' section.

#### Travel Planning

- 7.221 Draft Travel Plans have been provided for residential and self-storage components of the development would need to be secured by condition, subject to approval. Final versions of Travel Plans would be secured and monitored by S106 legal agreement, subject to approval.

#### Demolition and Construction Traffic

- 7.222 Should the application be approved, the impact on the road network from demolition and construction traffic would be controlled by way of conditions requiring the submission and approval of Demolition and Construction Management Plans. The Demolition and Construction Management Plan will need to consider the impact on pedestrians, cyclists and vehicles as well as fully considering the impact on other developments in close proximity.

### **ENVIRONMENT**

#### Energy & Environmental Sustainability

- 7.223 In terms of carbon reduction targets, LBTH policy maintains that new residential development should be zero carbon and non-residential developments should achieve a 45% carbon reduction target beyond Part L 2013 of the Building Regulations. Local Plan policy D.ES7 requires zero carbon emission development to be achieved through a minimum 45% reduction in regulated carbon dioxide emissions on-site, and the remaining regulated carbon dioxide emissions up to 100%, to be off-set through a cash in lieu contribution. Policy SI2 of the London Plan requires major development to be net zero-carbon. This means reducing carbon dioxide emissions from construction and operation, and minimising both annual and peak energy demand in accordance with the following energy hierarchy.
- 7.224 Development Plan policies further require the use of sustainable design assessment tools to ensure that new development has maximised use of climate change mitigation measures. The current interpretation of this policy is to require non-residential development to achieve BREEAM 'Excellent' standards. The Local Plan further requires new non-residential development, greater than 500sqm, to meet at least BREEAM 'Excellent' standards.
- 7.225 The LBTH's Sustainable Development team and the GLA's Energy team have reviewed the submitted Energy Statement and Sustainability Statement, prepared by Silcock Dawson and Partners. Their comments are incorporated into the assessment below.
- 7.226 The energy assessment (Silcock Dawson and Partners) supporting the application is generally supported and the use of low carbon electrical based solutions have the potential to take advantage of future grid decarbonisation. The proposals for the storage facility will be served by a heat pump solution and 100kWp photovoltaic array. The residential units are proposed to have a communal ASHP system, designed with future connection to district heating, and 23.4kWp photovoltaic array, and the other non-residential units have heat pumps proposed.

- 7.227 The site wide proposals are for a 58% reduction in regulated carbon emissions which exceeds the policy D.ES7 requirements. The regulated carbon profile of the proposals are:
- Baseline – 188.9 tonnes/CO2/year
  - Proposed Development – 68 tonnes/CO2/yr
- 7.228 This results in a carbon offsetting contribution identified in the energy assessment of £195,143 to offset the remaining 68 tonnes CO2 and achieve net zero carbon. This figure is based on the £95 per tonne rate over a 30 year period as identified in the London Plan. This contribution should be secured with payment prior to commencement.
- 7.229 In relation to sustainability and Policy D.ES7, which requires BREEAM Excellent rating for all schemes above 500m2, the applicant has submitted a sustainability statement that details the credits and scoring that can be achieved at present. The document notes the limitations for achieving Excellent on 'Shell Only' schemes, where mandatory requirements cannot be met for ENE. This is accepted for the proposed 'Shell Only' uses and a minimum Very Good should be secured for those elements via condition. For all other elements that are 'fully fitted' or 'shell and core', the minimum policy requirement is an Excellent rating and the submitted sustainability statement has shown that an Excellent rating (>70%) can be achieved for these. This should be secured via condition for submission of 'Final BREEAM' certificates to show delivery to a BREEAM Excellent rating. An Overheating Strategy for residential units would also be secured by condition, subject to approval.

#### Air Quality

- 7.230 Development Plan policies require major developments to be accompanied by assessments which demonstrates that the proposed uses are acceptable and show how development would prevent or reduce air pollution. The Local Plan identifies that the application site falls within an area of poor air quality with NO2 Annual Mean concentration greater than 40 (µgm-3) for the southern part of the site including Pennington Street, and the northern part of the site including The Highway suffering from NO2 Annual Mean concentration greater than 60 (µgm-3).
- 7.231 The application is accompanied by an Air Quality Assessment by RPS Group and an Air Quality Neutral Assessment by RPS Group. The application has had regard to the potential impact of the proposed development on air quality at nearby residential properties and the impact of existing local air quality conditions on future residents. This has been assessed using local air quality monitoring sites. The impacts relating to dust were also considered as part of the assessment.
- 7.232 The 'Air Quality Neutral' included in the 'Air Quality Neutral Assessment' is satisfactory. It provides the relevant transport emission benchmarks (TEBs) for both NOx and PM10, and it calculates the sites NOx and PM10 emissions from transport, thus comparing them with the TEBs. The TEBs are met, for both NOx and PM10. With regard to building emissions, heating will be supplied by air source heat pumps, which do not have any building emissions. In conclusion, the proposed development is air quality neutral.
- 7.233 Subject to approval, conditions are required to secure submission of; Dust Management Plan and PM10 monitoring, details of mechanical ventilation for residential units, details of kitchen extraction for relevant future commercial uses, details of construction plant and machinery.

#### Health

- 7.234 London Plan GG3 requires developments to assess their potential impacts on the mental and physical health and wellbeing of communities through the use of Health Impact Assessments (HIAs). Tower Hamlets Local Plan D.SG3 requires major developments referable to the GLA to provide an HIA.

- 7.235 An HIA document has been submitted. The HIA has assessed the proposed development under a number of sub-headings such as 'Delivering Healthy Layouts,' 'Promoting Neighbourhood Cohesion,' 'Enabling Active Living' and 'Creating the Healthiest Environment.' The HIA has found positive health benefits as a result of the proposed development such as building layouts which have taken into consideration internal amenity and external amenity impacts, mixed tenure amenity spaces, increased local connectivity, infrastructure funding secured which could be used for health and social projects, employment opportunities, increased urban greening and there is also provision of a cultural venue.
- 7.236 A number of mitigation measures have been identified to mitigate potential negative health impacts during construction and operational phases of the development. These assessments have already been covered comprehensively, separately and mitigation has been secured by conditions or s106 legal agreement, subject to approval.

#### Biodiversity and Arboriculture

- 7.237 Development Plan policies seek to safeguard and provide for net gains for biodiversity. The application site consists entirely of existing buildings and hard surfaces, with minimal vegetation. Three nearby off-site trees are to be retained. The existing buildings have negligible potential for bat roosts. There will not, therefore, be any adverse impacts on biodiversity.
- 7.238 Policy D.ES3 requires major developments to deliver net gains in biodiversity that contribute to the Local Biodiversity Action Plan (LBAP). The proposed roof plan shows green roofs over most of the roof area of the proposed buildings, including some of the pitched roof of the self-storage building. Some of the biodiverse roofs are combined with photovoltaics, which is supported. The biodiverse roofs should be designed in accordance with best practice guidance published by Buglife and would therefore contribute to a LBAP target.
- 7.239 Proposed landscaping includes new trees, courtyard planting and a first floor level planter on the Pennington Street self-storage building. Ornamental planting will benefit biodiversity if it includes a good variety of nectar-rich perennials and/or shrubs. Biodiversity enhancements should be secured through a condition, subject to approval, to provide biodiverse roofs, landscaping to include a good diversity of nectar-rich plants to provide food for bumblebees and other pollinators for as much of the year as possible, trees, bat boxes and nest boxes for appropriate bird species, including house sparrow, and vertical planting. The agreed measures shall be implemented in full prior to the occupation of the development hereby approved. Conditions would also be required in order to protect the existing trees around the site and in respect of full details of proposed trees.
- 7.240 London Plan policy G5 states that predominantly residential developments should meet the Urban Greening Factor target score of 0.4 in regard to the quality and proportion of urban greening proposed. The applicant has calculated the Urban Greening Factor (UGF) score of the proposed development as 0.439 for the residential-led part of the site, which exceeds the target set by the London Plan. The UGF score for self-storage side of the site is calculated as 0.190 which is considered to be acceptable in this instance given the exemption for storage uses in the UGF calculation and clear separation between the two phases.

#### Flood Risk and Drainage

- 7.241 Development Plan policies seek to manage flood risk, encourage the use of Sustainable Urban Drainage Systems (SuDS) and sets out that development proposals should aim to achieve greenfield run-off rates and ensure that surface water run-off is managed as close to its source as possible. The application site is located within Flood Zone 1 and therefore has no significant risk of tidal or fluvial flooding. There are surface and ground water flooding risks associated within the wider catchment area.

- 7.242 The drainage strategy sets out proposals to limit surface water discharge in line with the greenfield run off rate and sets a discharge rate of 2l/s for the whole site (0.592ha) in a 1 in 100-year rainfall event plus 40% climate change allowance. The proposed development has incorporated SuDs onsite including proprietary treatment systems, hydrobrake flow controls, storage of 447.55m<sup>3</sup>, which has been provided using attenuation tanks, green roofs, and two landscaped podium areas. As a result, the proposed drainage strategy will go towards reducing the demand on the drainage network within this area and will provide betterment over the existing situation. Therefore, the drainage strategy is accepted in principle.
- 7.243 The application is supported subject to a condition to require submission of a final detailed surface water drainage scheme. Thames Water have also advised that, in regard to wastewater there would be adequate foul water and surface water network infrastructure capacity but in regard to water, there would be an inability of the existing water network infrastructure to accommodate the needs of this development proposal. Thames Water have requested conditions to ensure submission of a piling method statement, and a pre-commencement water network upgrades/ development and infrastructure phasing plan, subject to approval.

#### Land Contamination

- 7.244 The application has been reviewed by the Council's Environmental Health Land Contamination Officer and subject to standard conditions, the proposals are considered to be acceptable. Any contamination that is identified can be addressed within the condition discharge process and will ensure that the land is made safe prior to any construction or demolition work takes place.

### **INFRASTRUCTURE**

- 7.245 It is estimated that the proposed development would be liable for Tower Hamlets Community Infrastructure Levy (CIL) payments of approximately £1,029,267.40 (after deducting likely social housing relief and subject to indexation) and Mayor of London CIL of approximately £576,638.84 (after deducting likely social housing relief and subject to indexation). These figures are indicative only and have been estimated using the most up to date available information provided by the developer on floorspace and current indexation values. This estimate is also subject to a full in-depth assessment following the grant of planning permission as required by the CIL Regulations.
- 7.246 The CIL Regulations 2010 (as amended) allow CIL to be used to fund a wide range of infrastructure, including transport, flood defences, schools, hospitals, and other health and social care facilities. The levy can be used to fund a very broad range of facilities such as play areas, open spaces, parks and green spaces, cultural and sports facilities, healthcare facilities, academies and free schools, district heating schemes and police stations and other community safety facilities. This flexibility gives local areas the opportunity to choose what infrastructure they need to deliver their relevant plan (the Development Plan and the London Plan in London).
- 7.247 Alongside CIL, Development Plan Policies seek financial contributions to be secured by way of planning obligations to offset the likely impacts of the proposed development on local services and infrastructure. These financial and non-financial planning obligations are expected to be secured by S106 legal agreement. The requested planning obligations have been assessed by officers to be necessary to make the development acceptable in planning terms, directly related to the development, and fairly and reasonably related in scale and kind to the development



7.248 The applicant has agreed to meet all of the financial contributions that are sought by the Council's Planning Obligations SPD, as listed in the 'Recommendation' section below.

#### *Local Finance Considerations*

7.249 Assuming that the annual housing target of 3,931 units is delivered, the Council would be liable for a New Homes Bonus payment. Due to the threshold approach by the Government it is not possible to provide an exact amount of New Homes Bonus that the proposed development would deliver

### **HUMAN RIGHTS & EQUALITIES**

7.250 The Equality Act (2010) provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall, amongst other duties, have due regard to the need to:

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

7.251 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.

7.252 It is understood E1/ Studio Spaces have provided space for a proportion of LGBTQ+ events since around 2012. However since 2020 they have increased provision of these types of events and added a larger proportion of kink/ sex-positive events, becoming a recognised hub for such events. This has been evidenced recently in the LBTH Licensing Sub-Committee meeting of 26 July 2022, where the 'no nudity' clause was agreed to be removed from their premises license along with a protest to 'Save Kink Spaces' which took place outside the Town Hall. Safe and inclusive cultural and social spaces that meet the needs of the LGBTQ+ community in Tower Hamlets and London more widely are increasingly under threat of closure or indeed have closed recently. More generally, cultural venues and specifically nightclubs have been closing down at a concerning rate over the past 10 and more years.

7.253 Officers have undertaken an Equalities Impact Assessment (EqIA) included at Appendix 4. This assessment indicates that in the absence of appropriate measures put in place, secured through the planning consent, the proposed development could have potential negative impacts on three of the nine protected characteristic groups (age, gender reassignment and sexual orientation) resulting principally in relation to changes to the existing nightclub known as E1.

7.254 The proposal would involve moving the existing nightclub across to a replacement venue within the same site. The replacement venue would be slightly smaller but it would be purpose-built to contemporary standards in regard to accessibility and with a more flexible floorplate.

7.255 The following mitigation measures that will be secured and controlled by planning conditions or section 106 legal obligation are outlined and have been agreed by the applicant:

- Use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.
- Right of first refusal to Studio Spaces/ E1 for Unit 1 and Unit 2 with marketing strategy only to nightclub operators at a comparable market rent, secured by legal obligation. If the current operator decided not to take on the space then the marketing strategy should include an obligation to market the daytime use of the space for cultural/ creative uses
- Construction phasing plan to ensure continuous operation of nightclub, secured by legal obligation. The phasing should ensure that the nightclub should be able to stay in their existing premises until the replacement space is fit out an appropriate specification and they are offered a lease for the replacement space
- Strategy to host a proportion of LGBTQ+ events (with opportunities for kink and sex-positive events), secured by legal obligation
- Noise mitigation strategy for nightclub with details to be secured by planning conditions
- Noise mitigation strategy for new residential units with details to be secured by planning conditions
- Opening hours of the nightclub as existing, secured by planning condition
- The fit out of the nightclub space would need to be carried out by the developer to a specification that the nightclub operator is satisfied with or a financial contribution to cover fit out should be provided to the nightclub operator
- Deed of easement for noise with Tobacco Dock, to be secured by legal agreement

7.256 As the applicant has agreed to the above mitigation measures (specified within the EqIA) it is considered that impacts would be acceptable in regard to the Equality Act. If the above mitigation measures were not secured, then it is considered that the impacts on persons within the protected characteristic groups of age, gender reassignment and sexual orientation would be disproportionate and the Local Planning Authority would therefore recommend that the proposal should be rejected.

7.257 More generally, the proposed development would result in a number of positive impacts on protected characteristic groups and other groups through the provision of affordable housing units, wheelchair accessible housing units, tenure blind communal and child play space, disabled persons car parking, affordable workspace, job opportunities and a replacement nightclub with improved accessibility which would also provide some space for LGBTQ+ events.

7.258 In accordance with the Equality Act, the Local Planning Authority needs to ensure that the following aims are met within the planning application, to the best of its ability:

- Removing or minimising disadvantages suffered by people due to their protected characteristics.
- Taking steps to meet the needs of people from protected groups where these are different from the needs of other people.
- Encouraging people from protected groups to participate in public life or in other activities where their participation is disproportionately low.

7.259 As the applicant has agreed to the above measures, officers are satisfied that the proposed development would not result in adverse impacts upon equality or social cohesion. In conclusion, the Council as the Local Planning Authority has exercised its functions adequately

in respect of this planning application with due regard to the statutory duties set out in the Equalities Act in respect of the nine protected characteristics.

## **8. RECOMMENDATION**

8.1 That subject to any direction by the Mayor of London, **conditional planning permission is GRANTED** subject to the prior completion of a legal agreement to secure the following planning obligations:

### **8.2 Financial obligations**

- a. £87,668.00 towards construction phase employment skills training
- b. £10,428.94 towards end-user phase employment skills training
- c. £195,143 toward carbon emissions off-setting
- d. £335,000 towards upgraded pedestrian crossings in the locality
- e. £50,000 commuted sum (to be held for 3 years) towards 6 potential accessible (Blue Badge) car parking bays
- f. £15,000 commuted sum (to be held for 3 years) towards potential changes to on-street restrictions should servicing be considered to unduly impact Pennington Street or Artichoke Hill
- g. £37,797 towards monitoring (this figure is liable to be recalculated once the s106 agreement is drafted in case of changes to the Heads of Terms. The final monitoring fee will be calculated in accordance with the Planning Obligations SPD (2021))

### **8.3 Non-financial obligations:**

- a. Affordable housing (40 residential units) across the development (38% by habitable room with a 72/28 split between affordable rented and intermediate housing)
  - 27 affordable rented homes comprising 14 London Affordable Rent units / 13 Tower Hamlets Living Rent units
  - 13 intermediate units
  - Early Stage Viability Review
  - Full details and implementation of 4 x London Affordable Rent / Tower Hamlets Living Rent 'wheelchair user' dwellings (to M4 (3)(b) standard)
- b. Economic incentives
  - Access to employment
    - 20% local goods/ services procurement
    - 20% local labour in construction workforce
    - 9 x construction phase apprenticeships
- c. Transport matters:
  - Permit free development (residential)
  - Highways improvement works (S278 legal agreement)
  - Residential and Commercial Travel Plans
- d. Nightclub matters:

- Right of first refusal to Studio Spaces/ E1 for Unit 1 and Unit 2 with marketing strategy and rent strategy only to nightclub operators at a comparable market rent (with an obligation to market the daytime use of the space for cultural/ creative uses)
- Nightclub space to be completed to agreed shell and core and fit out to agreed specification
- Construction phasing plan to ensure continuous operation of nightclub (phasing should ensure that the nightclub will be able to stay open in their existing premises until the replacement space is fit out to an appropriate specification and they are offered a lease for the replacement space)
- Strategy to host a proportion of LGBTQ+ (including opportunities for kink and sex-positive events) events similar to the existing provision
- Legal agreement with residential occupants on-site to ensure they are aware of the normal operation of the nightclub

e. Architect's Retention Clause and/or Design Certification

f. Affordable workspace strategy (920sqm of class E(g) floorspace at a minimum 10% discount of market rates in perpetuity)

g. 46sqm self-storage space to local charities for free

h. Deed of easement with Tobacco Dock

i. Public realm access and management including compliance with Public London Charter

j. Compliance with Considerate Constructors Scheme

8.4 That the Corporate Director of Place is delegated the power to negotiate the legal agreement. If within three months of the resolution the legal agreement has not been completed, the Corporate Director for Place is delegated power to refuse planning permission.

8.5 That the Corporate Director of Place is delegated the power to impose conditions and informatives to address the following matters:

### **Planning Conditions**

8.6 The draft heads of conditions recommended, subject to approval, are listed below.

#### Compliance

1. 3 years deadline for commencement of development.
2. Development in accordance with approved plans.
3. Restrictions on demolition and construction activities:
4. Removal of PD rights for erection of fences following completion
5. Vegetation removal and nesting birds protection
6. Opening hours of the nightclub
7. Nightclub use of Unit 1 and Unit 2
8. Piling method statement
9. Energy and sustainability
10. Noise standards for mechanical plant and equipment
11. Energy and efficiency standards
12. Air quality emission standards for boilers & CHP
13. Commercial unit amalgamation size restriction

14. Non-road mobile machinery
15. Tree protection
16. No additional plant, water tanks, air units on roof not on plans
17. No additional pipes on building faces
18. Majority (75%) active ground floor frontages
19. No external roller shutters

#### Pre-commencement

The inclusion of the following pre-commencement conditions has been agreed in principle with the applicants, subject to detailed wording:

20. Construction Environmental Management Plan and Construction Logistics Plan
21. Noise mitigation scheme in relation to Tobacco Dock
22. Details of all mechanical plant
23. Stage 1 Road Safety Audit
24. Detailed design of the servicing access on The Highway
25. Foul water drainage capacity including development and infrastructure phasing plan and completion of wastewater network upgrades
26. Surface water drainage capacity including development and infrastructure phasing plan and completion of wastewater network upgrades
27. Water infrastructure network upgrades including development and infrastructure phasing plan
28. Dust Management Plan and PM10 monitoring
29. Land Contamination Remediation Scheme, including (subject to post completion verification)
30. Written Scheme of Investigation (WSI) (Archaeology)
31. Fire strategy
32. Potable water and wastewater network upgrades
33. Air quality – mechanical ventilation
34. Digital connectivity
35. Circular Economy

#### Pre-superstructure works

36. Details of external facing materials and architectural detailing
37. Details of hard and soft landscaping of all public realm and open spaces (including details relating to play equipment, street furniture, wind mitigation measures, sensitive light strategy, air pollution reducing plants, communal gardening, 0.4 Urban Greening Factor)
38. Biodiverse mitigation and enhancement strategy
39. Water efficiency calculator for new dwellings from Building Regulations Approved Document Part G
40. Sustainable urban drainage strategy
41. Details of aerals – removal of PD rights
42. Inclusive communal and play space details

43. Street lighting on buildings feasibility
44. Overheating strategy
45. Car Parking Management Plan (including details of residential and non-residential disabled persons car parking spaces, safe access routes and ECVPs)
46. Cycle Parking Management Plan
47. Deliveries and Servicing Plan
48. Site Waste Management Plan
49. Noise impact assessment and mitigation
50. Secured by design details

#### Prior to occupation

51. Details of proposed trees
52. Details of signage
53. Flexible commercial space curating strategy
54. Nightclub Noise Management Plan
55. Nightclub Travel Management Plan
56. Post-completion internal residential noise level testing against nightclub
57. Noise verification report for internal residential units against external noise
58. Details of glazing to internal residential units
59. Wheelchair accessible residential units details
60. Wheelchair accessible residential units marketing, 9 months prior to completion
61. Details of kitchen extraction for commercial units and flue emissions

#### Post-occupation

62. Submission of a post-construction assessment to report on the development's actual Whole Life Carbon emissions

## **8.7 Informatives**

1. Permission subject to legal agreement.
2. Development is CIL liable.
3. Thames Water – proximity to assets.

## APPENDIX 1

### Drawings and Documents List

Title	Drawing Number/ Version
<b>Site Location Plan (1:1250 at A3)</b>	
Site Location Plan	2253 -X01-B
<b>Existing (1:250 at A1)</b>	
Existing Site Plan showing Demolition	2253-X02-C
Ground Floor Plan as existing with topo overlay	2253-X03-B
Existing Elevations	2253-X04-A
<b>Proposed (1:250 at A1)</b>	
Proposed Site Plan/ Block Plan	2253-P01-A
Block Plan showing Pedestrian Public Realm	2253-P02-E
Block Plan showing Separation Distances	2253-P03-D
Boundary Conditions	2253-P60-B
Hard Landscaping Plan	2253-P04-G
Lower Ground Floor (Level -1)	2253-P06-AB
Ground Floor (Level 0)	2253-P07-AF
First Floor Plan	2253-P08-W
Second Floor Plan	2253-P09-W
Third Floor Plan	2253-P10-V
Fourth Floor Plan	2253-P11-X
Fifth Floor Plan	2253-P12-W



Sixth Floor Plan	2253-P13-R
Seventh Floor Plan	2253-P14-U
Roof Plan	2253-P16-Q
<b>Soft Landscaping (1:200 at A1)</b>	
Landscaping Plan (Soft)	TALA 834.20.02 –
<b>Sections and Elevations (1:250 at A1)</b>	
Sections	2253-P18-N
Elevations Sheet 1 of 5	2253-P19-O
Elevations Sheet 2 of 5	2253-P20-Q
Elevations Sheet 3 of 5	2253-P21-N
Elevations Sheet 4 of 5	2253-P22-M
Elevations Sheet 5 of 5	2253-P23-H
Proposed Elevations with Proposed Heights	2253 SK48
Proposed Elevations with Proposed Heights	2253 SK49
<b>Materials Plans</b>	
Materials & Elevations Details Key Elevations (1:500 at A1)	2253-P24-A
Material Details Sheet 1 of 4 (1:100 at A1)	2253-P25-A
Material Details Sheet 2 of 4 (1:100 at A1)	2253-P26-A
Material Details Sheet 3 of 4 (1:100 at A1)	2253-P27-A
Material Details Sheet 4 of 4 (1:100 at A1)	2253-P28-A
Brick Details (1:50 at A1)	2253-P29-A
<b>Detailed Floorplans (1:50 at A1)</b>	
Flat Unit Types A-E	2253-P40-F
Flat Unit Types F-J	2253-P41-D
Flat Unit Types K-N	2253-P42-D
Flat Unit Types O-R	2253-P43-F
Flat Unit Types S-U	2253-P44-E
Flat Unit Types T	2253-P45-B
<b>Ventilation Details Plans (1:200 at A0)</b>	
Lower Ground Floor Layout – Silcock Dawson	210023-SDP-XX-LG-DR-M-50100 P2
Mechanical Services – Roof Plant Layout	210023-SDP-XX-RF-DR-M-50100 P2

Heating Schematic	210023-SDP-XX-ZZ-DR-M-50001 P1
<b>Fire Strategy Plans (1:500 at A3)</b>	
Fire Strategy Sheet 1 of 10	2253-P50-C
Fire Strategy Sheet 2 of 10	2253-P51-D
Fire Strategy Sheet 3 of 10	2253-P52-B
Fire Strategy Sheet 4 of 10	2253-P53-B
Fire Strategy Sheet 5 of 10	2253-P54-B
Fire Strategy Sheet 6 of 10	2253-P55-B
Fire Strategy Sheet 7 of 10	2253-P56-B
Fire Strategy Sheet 8 of 10	2253-P57-B
Fire Strategy Sheet 9 of 10	2253-P58-B
Fire Strategy Sheet 10 of 10	2253-P59-B

<b>Supporting Documents and Reports</b>	<b>Prepared By</b>	<b>Ref.</b>
Covering Letter	DWD	November 2021
Application Forms	DWD	November 2021
CIL Additional Information Form	DWD	November 2021
Design & Access Statement	Mountford Pigott	2253-PGB-04-C – October 2021
Updated version of Page 102 of Design and Access Statement – Cycle Access	Mountford Pigott	2253-PGB-04-C - April 2022
Visualisations Document	Mountford Pigott	2253-PGB-05-F
Planning Statement	DWD	November 2021
Affordable Housing Statement (with Schedule of Accommodation by Unit dated 28 February 2022 appended)	DWD	12707 Rev 1 March 2022
Arboricultural Impact Assessment & Arboricultural Method Statement	RPS	JSL3933_771
Air Quality Assessment	RPS	JAR02468
Air Quality Neutral Assessment	RPS	JAR02468
Historic Environment (Archaeology) Desk Based Assessment	PCA	R14706
Archaeological Evaluation	PCA	R14701
Preliminary Ecology Appraisal (Biodiversity Survey)	RPS	ECO01680_871

Construction & Environmental Management Plan	.Big Yellow Self Storage Co. Ltd	October 2021
Circular Economy Statement	Silcock Dawson & Partners	210023 Version 5 10/08/2022
GLA Whole Life Cycle Assessment Template – Big Yellow Phase 1 (Excel Format)	Silcock Dawson & Partners	Version 2 Updated August 2022
GLA Whole Life Cycle Assessment Template – Residential Phase 2 (Excel Format)	Silcock Dawson & Partners	Version 2 Updated August 2022
Daylight & Sunlight Assessment: Internal Daylight, Sunlight and Overshadowing Report	GIA	15316 07 October 2021
Daylight & Sunlight Assessment: Impact on Neighbouring Properties Report and supporting Appendices	GIA	15316 28 October 2021
Drainage Strategy and Maintenance Statement including SuDS and Foul Sewage Assessment	Campbell Reith	15316 28 October 2021
Energy Assessment (including Overheating Risk Assessment)	Silcock Dawson & Partners	210023-SDP-XX-XX-ES-04701 Version 4 07/06/2022
Energy Assessment Emission Reporting Spreadsheet (Excel Format)	Silcock Dawson & Partners	v1.2_2020 (V2) Updated June 2022
Fire Statement – Phase 1	Zeta Services	Version 6 - July 2022
Fire Statement – Phase 2	Zeta Services	Version 6 - July 2022
Addendum to: - Zeta Planning/Fire Statement Phase 1 & Phase 2 (November 2021); - Fire Statement Form (March 2022);	Zeta Services	June 2022
Fire Statement Form	Zeta Services	14 June 2022
London Plan Guidance Fire Safety - Completed Template Forms	Zeta Services	April 2022
Flood Risk Assessment	Campbell	13733

	Reith	Rev P2 November 2021
Helping Local Businesses Grow	.Big Yellow Self Storage Co. Ltd	November 2021 2253-PGB-08 I
Land Quality Statement (Contamination Statement)	Campbell Reith	12649 Rev P02 November 2021
Landscape Statement	Terry Anderson Landscape Architects	Terry Anderson Landscape Architects
Lighting Impact Assessment including Lighting Plan	Silcock Dawson & Partners	210023 Version 2 – 08/11/2021
Night Time Venue and Photography/ Filming Studio - Re-Provision and Management Plan	DWD	Revision 4 – July 2022
Travel Management Plan – Night Time & Photography / Filming Studio Venue	Cotswold Transport Planning	Version 3 - November 2021
Noise Assessment for proposed mixed use development	Sharps Acoustics	3rd November 2021
Review of noise levels from events at Tobacco Dock on proposed residential use and consideration of noise mitigation options	Sharps Acoustics	15 <sup>th</sup> March 2022
Scope of proposed noise survey to obtain noise levels from an event at Tobacco Dock, Wapping as they would affect a proposed residential development at 110 Pennington Street, Wapping	Sharps Acoustics	27 <sup>th</sup> June 2022
Letter prepared by David Chapman dated 16 <sup>th</sup> August 2022	Robin Mackenzie Partnership	16th August 2022 – L9153B-DJC
Offices and Workspace & Affordable Workspace Provision	DWD	November 2021
Phasing Letter	Campbell Reith	TMps-13733-281021-BY.docx - 28th October 2021
Planning History & Existing and Former Uses	DWD	12707 – November 2021
Retail & Town Centre Impact	Quod	Q210412 – October 2021

Assessment		
Development Schedule	Mountford Pigott	17 <sup>th</sup> June 2022
Existing Uses - Area Schedule	DWD	June 2022
Statement of Community Involvement	Your Shout	October 2021
Servicing and Refuse Management Plan – Residential & Commercial Use (including Waste Management)	Cotswold Transport Planning	Version 6 – March 2022
Servicing and Refuse Management Plan – Self Storage & Flexible Office/Workspace Use (including Waste Management)	Cotswold Transport Planning	Version 5 – February 2022
Sustainability Statement (including BREEAM Pre-Assessments)	Silcock Dawson & Partners	210023_SDP_XX_XX_ES-04701
Transport Assessment (including Framework Construction Logistics Plan)	Cotswold Transport Planning	Version 3 – November 2021
Transport Technical Note: Response to GLA Stage 1 Report	Cotswold Transport Planning	March 2022
Transport Technical Note	Rappor Transport Consultants	Version 4 – June 2022
Travel Plan - Residential	Cotswold Transport Planning	Version 4 – August 2022
Travel Plan - Self Storage & Flexible Office / Workspace	Cotswold Transport Planning	Version 3 – March 2022
Townscape, Visual Impact and Heritage Assessment	Peter Stewart Consultancy	October 2021
Multi-Utility Infrastructure Feasibility Assessment & Plans (Utilities Statement)	SMS	MPPROJ_BIG_0027_0001
Utilities Plan to accompany Feasibility Assessment	SMS	MPPROJ_TWT_0001_0001 T002
Urban Greening Factor	TALA	834.30.03
Economic Statement	Quod	Q210102 – November 2021
Health Impact Assessment	Quod	Q210102 – November 2022





## APPENDIX 2

### Existing Site Photographs



Appendix 2.1: Residential blocks in the local area and approximate distance from nightclub entrance. Queuing shown in yellow. Location of Tobacco Dock also shown



Appendix 2.2: View from east on Pennington Street towards photography and filming studios/ nightclub with self-storage above



Appendix 2.3: View of photography/ filming studios entrance (nightclub at night) on Pennington Street





Appendix 2.4: View of car dealership building from Pennington Street



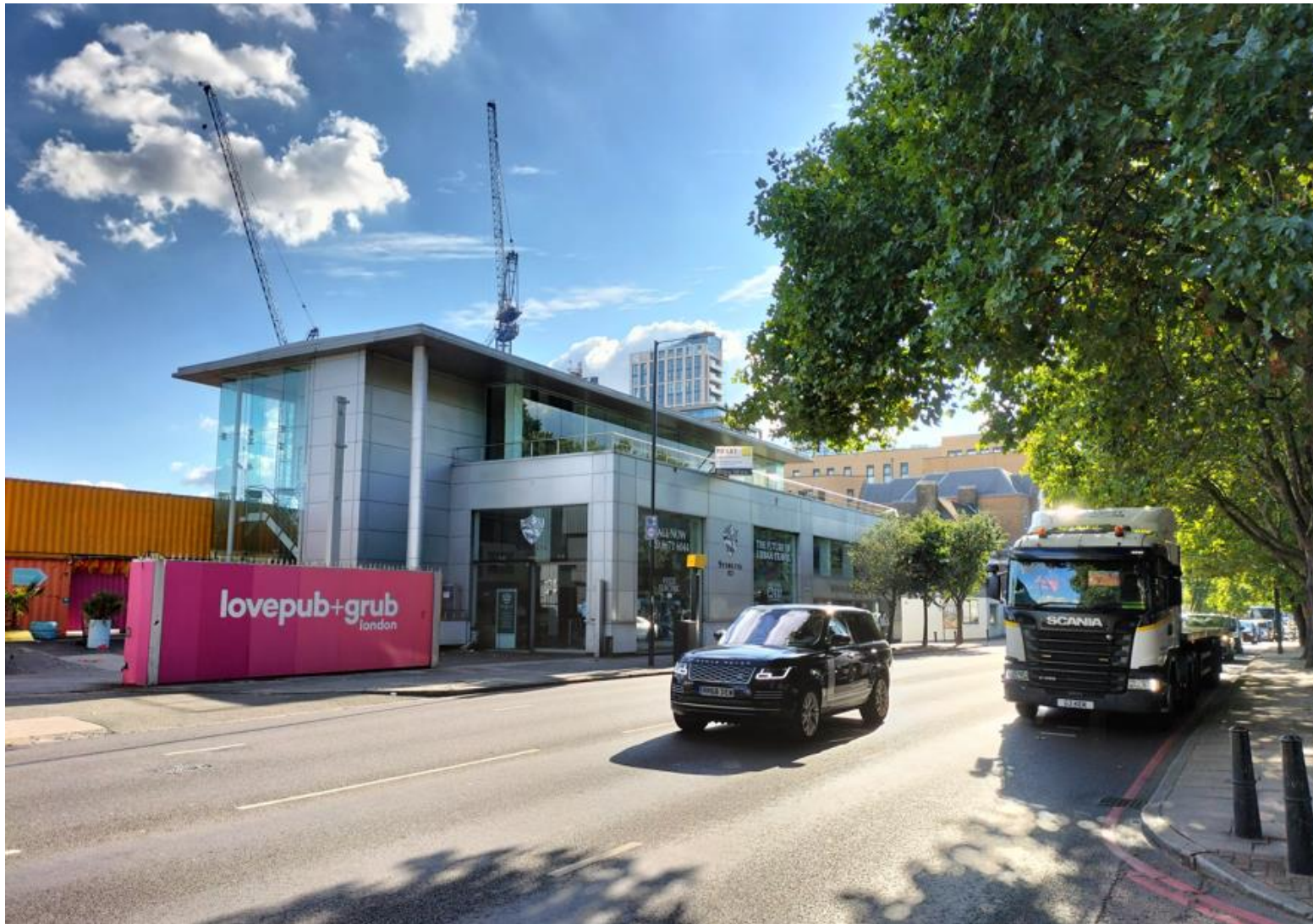
Appendix 2.5: View of car dealership building on Artichoke Hill





Appendix 2.6: View of self-storage building from The Highway





Appendix 2.7: View of car dealership building from The Highway

## APPENDIX 3

### Selection of Plans and Images



Appendix 3.1: Proposed view from the west on Pennington Street with Artichoke Hill to left/ north





Appendix 3.2: Proposed view from the east on Pennington Street





Appendix 3.3: Proposed view from the west on The Highway





Appendix 3.4: Proposed view from the east on The Highway

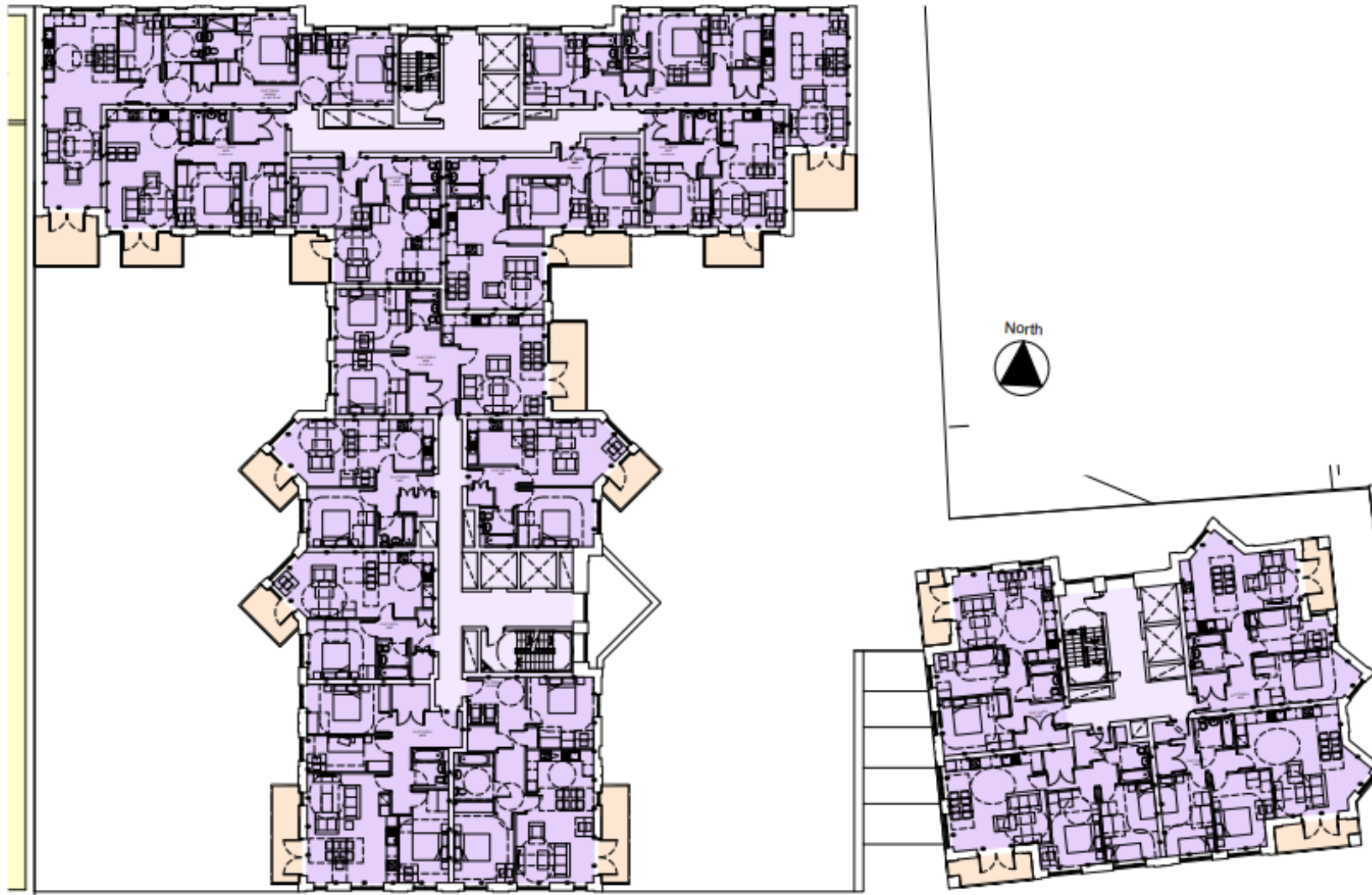


Appendix 3.5: Proposed sectional east elevation showing new pedestrian link

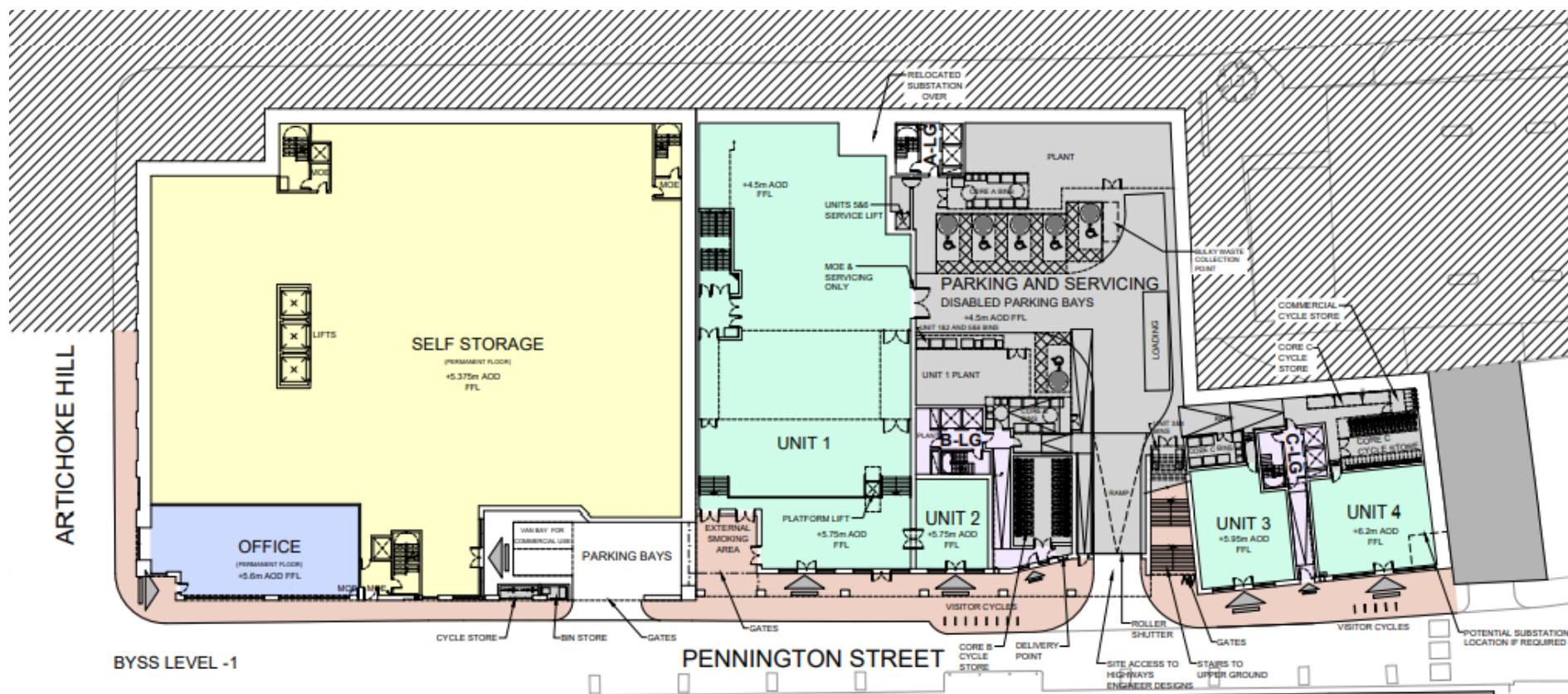


Appendix 3.6: Proposed sectional west elevation (Artichoke Hill)



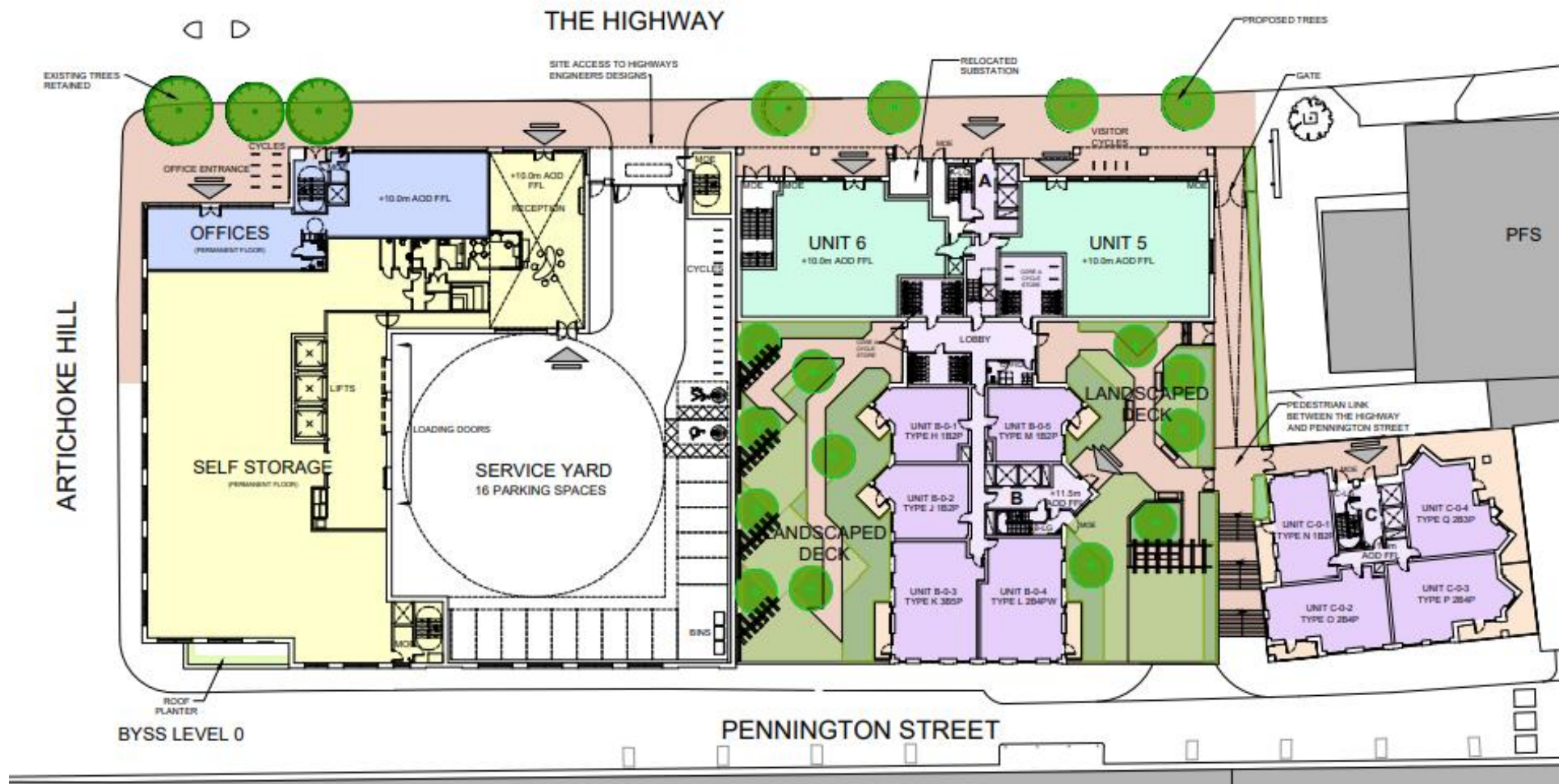


Appendix 3.5: Typical proposed upper floor residential layout

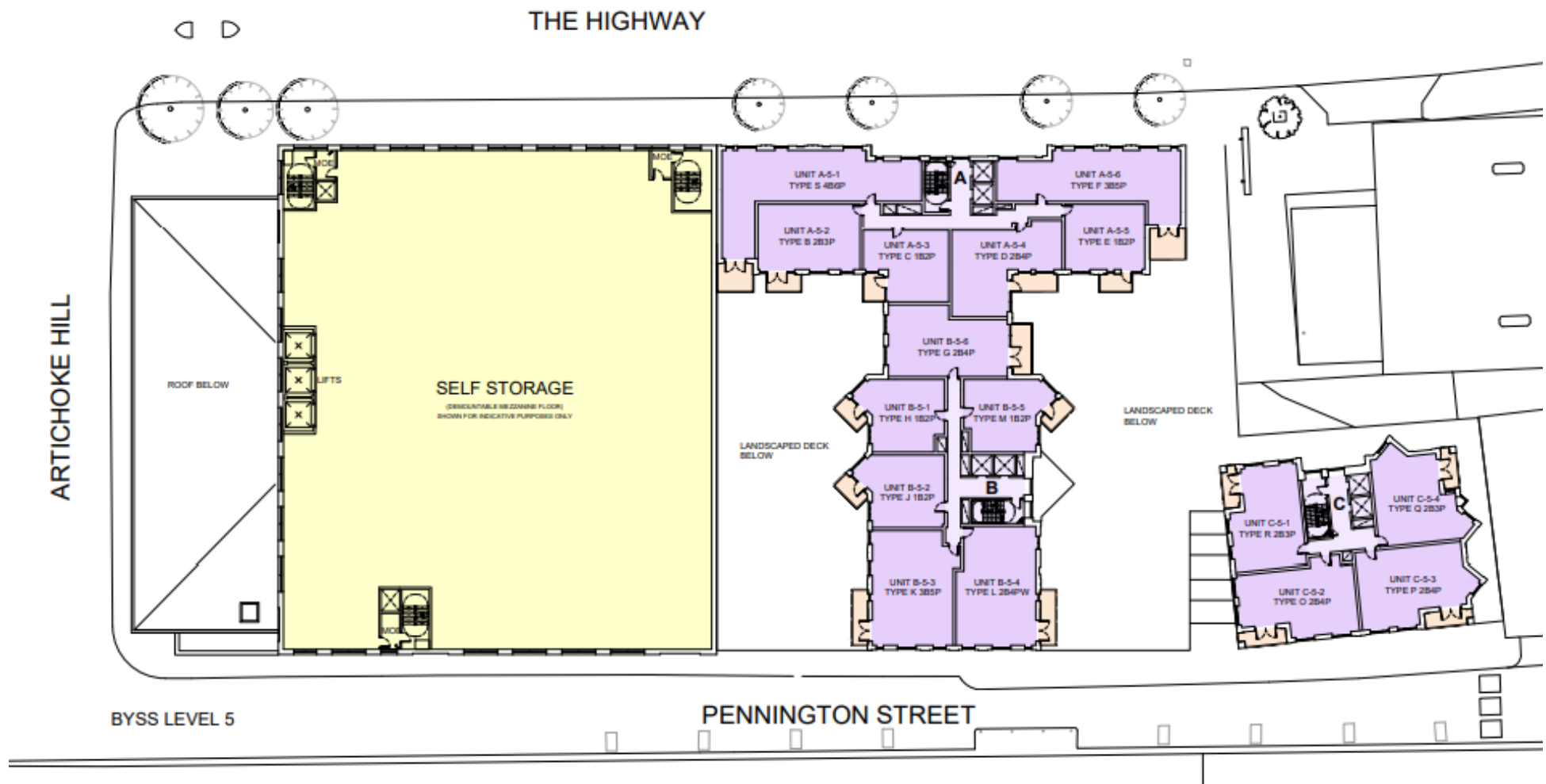


Appendix 3.6: Proposed lower ground floor plan

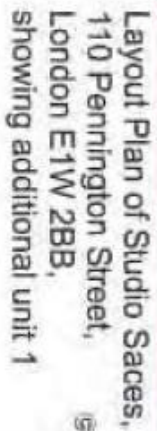




Appendix 3.7: Proposed ground floor plan



Appendix 3.8: Proposed fifth floor plan



### Appendix 3.9: Existing nightclub layout

## **APPENDIX 4**

### **Equality Impact Assessment**

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See  
Appendix A



Current  
decision rating

# Equality Impact Assessment: (EqIA)

## Section 1: Introduction

### Name of Proposal

Full Planning Application for "Demolition of the existing buildings. Erection of a part five and part eight storey building plus lower ground floor fronting The Highway comprising a self-storage facility (Use Class B8) and flexi office/ workspace accommodation (Use Class E). Construction of two blocks of up to eight storeys plus lower ground floor to provide 114 residential units (Use Class C3), ground and lower ground floor flexible commercial/ business/ service units (Use Class E) and nightclub and photography/ filming studio venue (Sui Generis). Ancillary works comprising vehicular access, service yard, parking, refuse store, landscaping and associated works"

### Service area & Directorate responsible

Planning and Building Control

### Name of completing officer

Rikki Weir

### Approved by Director/Head of Service

Paul Buckenham

### Date of approval

26-08-2022

### Conclusion

The EqIA has helped inform the Council in the determination of the current full planning application (PA/21/02513) in respect of 60-70 & 100 The Highway and 110 Pennington Street. The determination of the application is considered to have had regard for the statutory obligations imposed by the Equality Act upon the Council. It is considered the scheme would have potential negative impacts on three of the nine protected characteristic groups (age, gender reassignment and sexual orientation) resulting principally in relation to changes to the existing nightclub known as E1. E1 is a 1,600 capacity nightclub of London-wide cultural significance.

The impacts are considered to be acceptable in regard to the Equality Act if the outlined mitigation measures are secured. The Local Planning Authority recommend that the mitigation measures are secured, subject to the planning application being approved by Development Committee with the relevant section 106 planning obligations and conditions secured with the consent.

Without the mitigation measures being secured, the impacts on persons within the protected characteristic groups of age, gender reassignment and sexual orientation would be disproportionate and the Local Planning Authority would therefore recommend that the proposal should be rejected.



## **The Equality Act 2010 places a ‘General Duty’ on all public bodies to have ‘due regard’ to:**

- Eliminating discrimination, harassment and victimisation and any other conduct prohibited under the Act
- Advancing equality of opportunity between those with ‘protected characteristics’ and those without them
- Fostering good relations between those with ‘protected characteristics’ and those without them

### **Section 2 – General information about the proposal**

The proposal is a full planning application for residential and industrial led redevelopment on a plot of land at 60-70 & 100 The Highway and 110 Pennington Street, located within the St Katharine’s and Wapping Ward.

The development would involve demolition of all the existing industrial, employment, nightclub and photography/ filming studio uses within the predominantly 2-3 storey buildings on the site. The proposed development consists of the provision of predominantly 5-8 storey buildings including residential, industrial and employment uses along with a replacement nightclub and photography/ filming studio venue.

A nightclub has operated on the site since the early 2000s. Studio Spaces have operated on the site since 2011. Studio Spaces run their premises as a photography/ filming studio venue during the daytimes and as a nightclub mainly on Friday and Saturday nights.

The nightclub has hosted a wide range of popular events over the years, attracting internationally renowned DJs and club nights. The venue was recently listed as the 45<sup>th</sup> best nightclub in the world (DJ Mag). The venue has a capacity of 1,600 and hosts events mainly on Friday and Saturday nights from evening until morning.

In the past couple of years, E1 has become a hub for LGBTQ+, kink and sex-positive events with established promoters such as Klub Verboden, P\*ssy Palace and Torture Garden hosting nights at the venue. For the reasons above, E1 is considered to be a cultural attraction of London-wide importance in regard to the music/ nightclub scene.

The importance of the venue to the LGBTQ+, kink and sex-positive communities was recently highlighted around the time of the Licensing Sub-Committee on 26 July 2022 which sought to remove the ‘no nudity’ condition within the premises license in order to protect the future of LGBTQ+, kink and sex-positive events. This application received one written objection from the Local Licensing Authority and 203 written letters of support from the general public. A ‘Save Kink Spaces’ protest took place outside the Town Hall and the motion garnered national media interest. Within media coverage and during the Licensing Sub-Committee submissions, the venue was described as a safe and inclusive space for the LGBTQ+, kink and sex-positive communities. Subsequently the Local Licensing Authority agreed to remove the ‘no nudity’ condition of the premises license.

The planning application would provide a replacement space for the nightclub and photography/ filming studio venue. The proposed space would be 968sqm whereas the existing space is 1,123sqm, however the replacement space would be purpose-built to the latest policy standards. A construction phasing plan has been provided to show that the nightclub and photography/ filming studio venue could benefit from continuous operation, with the replacement space being constructed prior to demolition of the existing space, allowing the potential for the existing operator to move across without a gap in operation.

It is considered that the proposed development could potentially negatively impact on protected characteristic groups, notably – age, gender reassignment and sexual orientation. Section 4 will assess the impacts of the proposed development on protected characteristic groups, outline mitigation required and discuss what has been agreed by the developer and if that would be sufficient.





### **Section 3 – Evidence (Consideration of Data and Information)**

#### **Planning policy documents (with reference to most relevant planning policies):**

- National Planning Policy Framework (2021)
- London Plan (2021): policies GG1, D5, HC5, HC6,
- Tower Hamlets Local Plan 2031 (2020): policies D.TC5, S.CF1, D.CF2

#### **Supplementary Planning Documents:**

- Social Infrastructure (2015)
- City Fringe Opportunity Area Planning Framework (2015)
- Accessible London: Achieving an Inclusive Environment (2014)
- Planning for Equality and Diversity in London (2007)

#### **Other Relevant Documents:**

- LGBTQ+ Cultural Infrastructure in London: Night Venues, 2006–present, published by UCL Urban Laboratory (2017)
- Recorded homophobic hate crimes soared in pandemic, figures show (Guardian, December 2021)
- Share of adult population going to pubs, bars or clubs as a free time activity in England in 2017/18 by age, by Statista.com
- Cultural Infrastructure Plan, published by the GLA (2019)

#### **Relevant Statutory and Non-Statutory Responses Received:**

- GLA including Culture at Risk Unit
- LBTH Housing including Occupational Health

#### **Census:**

The equality profile of residents drawn from the Census is available on the Council's website, on the Statistics Pages and with that section the *Diversity* sub-section.

[http://www.towerhamlets.gov.uk/lgnl/community\\_and\\_living/borough\\_statistics/borough\\_statistics.aspx](http://www.towerhamlets.gov.uk/lgnl/community_and_living/borough_statistics/borough_statistics.aspx)

However there is no local data analysis in respect of gender reassignment, sexual orientation for the Borough of Tower Hamlets. A statistical bulletin has been published by the Office for National Statistics about the LGB community nationally. It is worth noting that transgender has not been included in the definition. The bulletin provides a LGB estimate for the size of the community in London.

<https://www.ons.gov.uk/peoplepopulationandcommunity/culturalidentity/sexuality/bulletins/sexualidentityuk/2018>.

#### **LGBTQ+ Cultural Infrastructure in London: Night Venues, 2006–2017:**

A report (commissioned by the GLA) titled "*LGBTQ+ Cultural Infrastructure in London: Night Venues, 2006–2017*" published by UCL Urban Laboratory (September 2017) has provided valuable information in respect to issues surrounding LGBTQ+ cultural night time venues and event spaces in London, including some individual focus on the Joiners Arms.

In respect of this scheme the following report findings are relevant:

- Since 2006, the number of LGBTQ+ venues in London has fallen from 121 to 51, a net loss of 58% of venues.

- This compares to drops of 44% in UK nightclubs (2005–2015), 35% in London grassroots venues (2007–2016) and 25% in UK pubs (2001–2016).
- Between 2006 and 2017 bars make up the largest proportion of identified operational LGBTQ+ venues (30%), followed by nightclubs (23%), public houses (24%), performance venues (19%), cafes (3%) and other/ unspecified (2%).
- 38% of LGBTQ+ venue closures were influenced by redevelopment with 21% venues converted to non-LGBT venue, 7% closures due to lease expiration/ renegotiation, and 19% closures for other/ unknown reasons.
- Members of the LGBT+ completed in depth survey as part of the report's research. These surveys revealed *"how the heritage of LGBTQ+ people is embedded in the fabric and specific cultures of designated LGBTQ+ venues and events. They also stress that venues are important spaces for education and intergenerational exchange"*
- The most valued LGBTQ+ spaces were experienced as non-judgemental places in which diverse gender identities and sexualities are affirmed, accepted and respected. These were sometimes described as 'safe spaces'. What this means to individuals varies, according to personal preferences, experiences and the specific forms of discrimination and oppression that people are vulnerable to (e.g. transphobia, homophobia, racism, ableism).
- Spaces that are/were more community-oriented, rather than commercially driven, are considered vital and preferable by many within LGBTQ+ communities.
- LGBTQ+ nightlife spaces were seen as important places to express LGBTQ+ rights and the community rituals that have helped people to survive forms of oppression and discrimination, from one generation to another. Venues were seen to contain, embed or communicate LGBTQ+ heritage in their fabric and atmospheres, and to provide a structure that holds specific communities together.
- The report notes the significant drop in LGBTQ+ venues is also alarming when seen alongside other recent data. For instance, according to Metropolitan Police data, homophobic hate crime in London rose by 12% over the year to March 2017, to over 2,000 recorded incidents.

#### **Recorded homophobic hate crimes soared in pandemic, figures show (Guardian, December 2021)**

- Police forces recorded 2,389 homophobic and 371 transphobic offences in June 2021, the highest number of any calendar month in the past three years. This equates to about 80 homophobic and 12 transphobic offences a day, roughly double the 38 and six per day in January.
- Hate crime is defined by the Home Office as "any criminal offence which is perceived, by the victim or any other person, to be motivated by hostility or prejudice towards someone based on a personal characteristic."
- Reports of sexual orientation hate crimes recorded by UK police forces rose from an average of 1,456 a month from January to April 2021 to 2,211 on average from May to August 2021
- From January to August 2021, at least 14,670 homophobic hate crime offences were recorded, compared with 11,841 in the same period of 2020 and 10,817 in 2019. During the same time



period, police recorded 2,129 transphobic offences – well above the 1,606 offences in 2020 and 1,602 in 2019.

**Share of adult population going to pubs, bars or clubs as a free time activity in England in 2017/18, by age**

- More than half of all English residents between the ages of 16 and 64 visited pubs, bars or clubs as a free-time activity during 2017/18. Those aged 25 to 44 were the most likely to attend a pub, bar or club, with 59.3 percent of respondents in that age category visiting such an establishment.

**Name of officer completing the EqIA:** Rikki Weir

**Service area:** Planning and Building Control

**EqIA signed off by:** Paul Buckenham

**Date signed off:** 26/08/2022

## Section 4 – Assessing the impacts on users

Protected Characteristic Group	Potential Impact	Reason and Nature of Impact	Mitigation Required
Age (All age groups)	Positive	<p>Child play space would be provided for new residential units.</p> <p>The development would provide accommodation suitable for a range of age groups.</p>	Secure full details of play space by planning conditions, subject to approval.
	Negative	Nightclubs tend to be most frequented by younger adults, who would be most affected by the potential loss of the existing nightclub.	<p>Ensure the continued operation of the nightclub by making sure that there would be fair conditions for an operator to take up the replacement space.</p> <ul style="list-style-type: none"> <li>The use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.</li> <li>A marketing strategy should be secured so that the space would be marketed specifically for a nightclub operator (with provisions for daytime cultural/ creative uses) at a market rent comparable to other such</li> </ul>

			<p>spaces, so that prospective nightclub operators would not be priced out.</p> <ul style="list-style-type: none"> <li>• A construction phasing plan should be secured in order to ensure that there could be continuous operation of the nightclub without a gap, which would result in a break and disruption of events and activities and loss of business viability.</li> <li>• Significant fit out costs contribution and/or fit out works should be secured for the existing or new operator of the replacement space otherwise the existing operator would be financially disadvantaged resulting in additional costs which could threaten business viability and also make the replacement space unattractive for a prospective new operator.</li> <li>• Opening hours of the nightclub should be as existing. Any undue restrictions would limit the operation and business viability of the nightclub operation which could result in closure.</li> </ul>
	Negative	Younger people would be impacted by residents of new homes within the development	<ul style="list-style-type: none"> <li>• Adequate internal noise insulation for new residential units should be secured so that new residents would</li> </ul>

		potentially complaining about the noise and activity from the Tobacco Dock nightclub (15 nights a year) which could result in its operations being stymied.	<p>not be unduly impacted by noise and to ensure the scheme complies with agent of change of principles from events at Tobacco Dock. Residents should be able to have their windows closed whilst not overheating. Complaints from residents would jeopardise the operation of the nightclub.</p> <ul style="list-style-type: none"> <li>• A Deed of Easement for Noise should be secured to ensure that new residents are aware of existing noise levels from nightclub events which occasionally take place at Tobacco Dock and normal noise levels from events can be maintained without being unnecessarily curtailed by complaints.</li> </ul>
<b>Disability</b> (Physical, learning difficulties, mental health and medical conditions)	Positive	The scheme would result in improved disability access arrangements for the nightclub along with the provision of wheelchair accessible residential units and car parking spaces.	Secure full details of all access arrangements, accessible residential units and car parking spaces by planning conditions, subject to approval.
<b>Sex</b>	Neutral	The proposal is not expected to have any adverse effect with regard to sex.	None
		Those who undergo gender	Ensure the continued operation of the

<b>Gender reassignment</b>	Negative	<p>reassignment would be impacted by potential loss of the nightclub as a safe and inclusive space, or from the operator of the replacement space potentially no longer running LGBTQ+, kink and sex-positive events.</p>	<p>nightclub by making sure that there would be adequate conditions for an operator to take up the replacement space.</p> <ul style="list-style-type: none"> <li>• The use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.</li> <li>• A marketing strategy should be secured so that the space would be marketed specifically for a nightclub operator (with provisions for daytime cultural/ creative uses) at a market rent comparable to other such spaces, so that prospective nightclub operators would not be priced out.</li> <li>• A construction phasing plan should be secured in order to ensure that there could be continuous operation of the nightclub without a gap, which would result in a break and disruption of events and activities and loss of business viability.</li> <li>• Significant fit out costs contribution and/or fit out works should be secured for the existing or new operator of the replacement space otherwise the existing operator would be financially disadvantaged resulting in additional costs which</li> </ul>
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			<p>could threaten business viability and also make the replacement space unattractive for a prospective new operator.</p> <ul style="list-style-type: none"> <li>• Even if the nightclub reopened in the replacement space, if there was a new operator, they could have a different ethos and decide not to run LGBTQ+, kink and sex-positive events. Therefore, a strategy should be secured which agrees that the operator of the replacement space markets and provides events space to LGBTQ+, kink and sex-positive club promoters, ensuring a certain minimum proportion of events take place within the venue.</li> <li>• Opening hours of the nightclub should be as existing. Any undue restrictions would limit the operation and business viability of the nightclub operation which could result in closure.</li> </ul>
<b>Marriage and civil partnership</b>	Neutral	The proposal is not expected to have any adverse effect with regard to marriage and civil partnership.	None
<b>Religion or philosophical belief</b>	Neutral	The proposal is not expected to have any adverse effect with regard to religion or belief.	None

<b>Race</b>	Neutral	The proposal is not expected to have any adverse effects with regard to race.	None
<b>Sexual orientation</b>	Negative	LGBTQ+ persons would be impacted by potential loss of the nightclub as a safe and inclusive space, or from the operator of the replacement space potentially no longer running LGBTQ+, kink and sex-positive events.	<p>Ensure the continued operation of the nightclub by making sure that there would be adequate conditions for an operator to take up the replacement space.</p> <ul style="list-style-type: none"> <li>• The use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.</li> <li>• A marketing strategy should be secured so that the space would be marketed specifically for a nightclub operator (with provisions for daytime cultural/ creative uses) at a market rent comparable to other such spaces, so that prospective nightclub operators would not be priced out.</li> <li>• A construction phasing plan should be secured in order to ensure that there could be continuous operation of the nightclub without a gap, which would result in a break and disruption of events and activities and loss of business viability.</li> <li>• Significant fit out costs contribution and/or fit out works should be</li> </ul>

			<p>secured for the existing or new operator of the replacement space otherwise the existing operator would be financially disadvantaged resulting in additional costs which could threaten business viability and also make the replacement space unattractive for a prospective new operator.</p> <ul style="list-style-type: none"> <li>• Even if the nightclub reopened in the replacement space, if there was a new operator, they could have a different ethos and decide not to run LGBTQ+, kink and sex-positive events. Therefore, a strategy should be secured which agrees that the operator of the replacement space markets and provides events space to LGBTQ+, kink and sex-positive club promoters, ensuring a certain minimum proportion of events take place within the venue.</li> <li>• Adequate noise insulation of the nightclub in regard to new residential units on-site, along with adequate noise insulation of new residential units on-site to ensure they meet policy requirements. Residents should be able to have their windows</li> </ul>
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			<p>closed whilst not overheating. Complaints from residents would jeopardise the operation of the nightclub.</p> <ul style="list-style-type: none"> <li>Opening hours of the nightclub should be as existing. Any undue restrictions would limit the operation and business viability of the nightclub operation which could result in closure.</li> </ul>
<b>Pregnancy and maternity</b>	Neutral	The proposal is not expected to have any adverse effect with regard pregnancy and maternity	None

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Other Groups	Potential Impact	Reason and Nature of Impact	Mitigation Required
<b>Socio-economic</b>	Positive	Job opportunities, affordable workspace, affordable housing would be provided by the proposed development.	Full details would be secured by planning conditions and legal agreement.
<b>Parents/ carers</b>	Positive	Provision of wheelchair accessible units and affordable housing.	Full details would be secured by planning conditions and legal agreement.
<b>Any other group</b>	N/A	N/A	N/A

The scheme is considered to have potential negative impacts to 3 of the protected characteristic groups, namely age, gender reassignment and sexual orientation. In light of the negative impacts outlined, mitigation measures have been recommended which would ensure that the negative impacts would be safeguarded against and that protected characteristic groups would be protected.

In summary, the following mitigation measures are required:



- Use of the space should be secured as Sui Generis and for the specific nightclub and photography/ filming studio venue use so that any change of use away from this would need to be justified by a full planning application.
- Right of first refusal to Studio Spaces/ E1 for Unit 1 and Unit 2 with marketing strategy only to nightclub operators at a comparable market rent, secured by legal obligation. If the current operator decided not to take on the space then the marketing strategy should include an obligation to market the daytime use of the space for cultural/ creative uses
- Construction phasing plan to ensure continuous operation of nightclub, secured by legal obligation. The phasing should ensure that the nightclub should be able to stay in their existing premises until the replacement space is fit out an appropriate specification and they are offered a lease for the replacement space
- Strategy to host a proportion of LGBTQ+ events (with opportunities for kink and sex-positive events), secured by legal obligation
- Noise mitigation strategy for nightclub with details to be secured by planning conditions
- Noise mitigation strategy for new residential units with details to be secured by planning conditions
- Opening hours of the nightclub as existing, secured by planning condition
- The fit out of the nightclub space would need to be carried out by the developer to a specification that the nightclub operator is satisfied with or a financial contribution to cover fit out should be provided to the nightclub operator
- Deed of easement for noise with Tobacco Dock, to be secured by legal agreement

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These above measures would enable the proposed development to safeguard against impacts on protected characteristic groups, helping to reduce social inequalities and ensure a stronger community cohesion in accordance with the Equality Act and the Development Plan.

In considering potential action points to mitigate impacts of the development upon protected characteristic groups, the Council acting as the Local Planning Authority needs to act within the constraints imposed by planning legislation including considerations given to the National Planning Policy Framework in respect of what is deemed reasonable, proportionate and enforceable planning conditions and s106 planning obligations.

The Local Planning Authority needs to have due regard to the Equality Act in reaching conclusions on this planning application; equally, the Council needs to make decision in accord with the Development Plan, including safeguarding the amenity of the neighbouring properties, particularly in respect of noise.

## **Section 5 – Impact Analysis and Action Plan**



Recommendation	Key activity	Progress milestones including target dates for either completion or progress	Officer responsible	Progress
Subject to planning consent being granted for the scheme, secure the mitigation measures by Section 106 legal agreement and planning conditions	Secure the mitigation measures by Section 106 legal agreement and planning conditions	Committee report (with EqlA) to be published one week before Development Committee.  Decision to be decided by Development Committee.	Rikki Weir, case officer, in co-operation with LBTH Legal Services (Planning)	Dependent on decision made

## **Section 6 – Monitoring**

Have monitoring processes been put in place to check the delivery of the above action plan and impact on equality groups?

Yes?

☒

No?

☐

Describe how this will be undertaken:




If the planning application is approved, the Head of Terms, within the Section 106 Agreement shall include a monitoring process involving the Borough and Greater London Authority. Specifically, the GLA would be involved in the process in establishing the appropriate criteria for a marketing strategy and a strategy to host a proportion of LGBTQ+, kink and sex-positive events.

This EqIA would accompany any Committee Report and be a material planning consideration in determination of the planning application.



## **Appendix A**

### **Equality Impact Assessment Decision Rating**

<b>Decision</b>	<b>Action</b>	<b>Risk</b>
As a result of performing the EqIA, it is evident that a disproportionately negative impact (direct, indirect, unintentional or otherwise) exists to one or more of the nine groups of people who share a Protected Characteristic under the Equality Act. It is recommended that this proposal be suspended until further work is undertaken.	<b>Suspend – Further Work Required</b>	<b>Red</b> 
As a result of performing the EqIA, it is evident that there is a risk that a disproportionately negative impact (direct, indirect, unintentional or otherwise) exists to one or more of the nine groups of people who share a protected characteristic under the Equality Act 2010. However, there is a genuine determining reason that could legitimise or justify the use of this policy.	<b>Further (specialist) advice should be taken</b>	<b>Red Amber</b> 
As a result of performing the EqIA, it is evident that there is a risk that a disproportionately negatively impact (as described above) exists to one or more of the nine groups of people who share a protected characteristic under the Equality Act 2010. However, this risk may be removed or reduced by implementing the actions detailed within the <i>Action Planning</i> section of this document.	<b>Proceed pending agreement of mitigating action</b>	<b>Amber</b> 
As a result of performing the EqIA, the proposal does not appear to have any disproportionate impact on people who share a protected characteristic and no further actions are recommended at this stage.	<b>Proceed with implementation</b>	<b>Green:</b> 