

Meeting of the

# **STRATEGIC DEVELOPMENT COMMITTEE**

---

**Thursday, 8 November 2007 at 7.30 p.m.**

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## **A G E N D A**

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### **VENUE**

**Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove  
Crescent, London, E14 2BG**

<b>Members:</b>	<b>Deputies (if any):</b>
<b>Chair: Councillor Rofique U Ahmed</b> <b>Vice-Chair: Councillor Helal Abbas</b>	
<b>Councillor Louise Alexander</b> <b>Councillor Shahed Ali</b> <b>Councillor M. Shahid Ali</b> <b>Councillor Sirajul Islam</b> <b>Councillor Rania Khan</b> <b>Councillor Joshua Peck</b> <b>Councillor Simon Rouse</b>	<b>Councillor Ohid Ahmed, (Designated Deputy representing Councillors Rofique U. Ahmed, Helal Abbas, Md. Shahid Ali, Sirajul Islam and Joshua Peck)</b> <b>Councillor Tim Archer, (Designated Deputy representing Councillor Simon Rouse)</b> <b>Councillor Lutfu Begum, (Designated Deputy representing Councillors Shahed Ali and Rania Khan)</b> <b>Councillor Alibor Choudhury, (Designated Deputy representing Councillors Rofique U. Ahmed, Helal Abbas, Md. Shahid Ali, Sirajul Islam and Joshua Peck)</b> <b>Councillor Stephanie Eaton, (Designated Deputy representing Councillor Louise Alexander)</b> <b>Councillor Rupert Eckhardt, (Designated</b>

Deputy representing Councillor Simon Rouse)  
Councillor Harun Miah, (Designated Deputy representing Councillors Shahed Ali and Rania Khan)  
Councillor Dulal Uddin, (Designated Deputy representing Councillors Shahed Ali and Rania Khan)  
Councillor Motin Uz-Zaman, (Lead Member, Health and Wellbeing)

**[Note: The quorum for this body is 3 Members].**

If you require any further information relating to this meeting, would like to request a large print, Braille or audio version of this document, or would like to discuss access arrangements or any other special requirements, please contact: Louise Fleming, Democratic Services, Tel: 020 7364 4878, E-mail: [louise.fleming@towerhamlets.gov.uk](mailto:louise.fleming@towerhamlets.gov.uk)

**LONDON BOROUGH OF TOWER HAMLETS**  
**STRATEGIC DEVELOPMENT COMMITTEE**

**Thursday, 8 November 2007**

**7.30 p.m.**

**1. APOLOGIES FOR ABSENCE**

To receive any apologies for absence.

**2. DECLARATIONS OF INTEREST**

To note any declarations of interest made by Members, including those restricting Members from voting on the questions detailed in Section 106 of the Local Government Finance Act, 1992.

**Note from the Chief Executive**

In accordance with the Council's Code of Conduct, Members must declare any **personal interests** they have in any item on the agenda or as they arise during the course of the meeting. Members must orally indicate to which item their interest relates. If a Member has a personal interest he/she must also consider whether or not that interest is a **prejudicial personal interest** and take the necessary action. When considering whether or not they have a declarable interest, Members should consult pages 195 to 198 of the Council's Constitution. Please note that all Members present at a Committee meeting (in whatever capacity) are required to declare any personal or prejudicial interests.

A **personal interest** is, generally, one that would affect a Member (either directly or through a connection with a relevant person or organisation) more than other people in London, in respect of the item of business under consideration at the meeting. If a member of the public, knowing all the relevant facts, would view a Member's personal interest in the item under consideration as so substantial that it would appear likely to prejudice the Member's judgement of the public interest, then the Member has a **prejudicial personal interest**.

**Consequences:**

- If a Member has a **personal interest**: he/she must declare the interest but can stay, speak and vote.
- If the Member has **prejudicial personal interest**: he/she must declare the interest, cannot speak or vote on the item and must leave the room.

When declaring an interest, Members are requested to specify the nature of the interest, the particular agenda item to which the interest relates and to also specify whether the interest is of a personal or personal and prejudicial nature. This procedure is designed to assist the public's understanding of the meeting and is also designed to enable a full entry to be made in the Statutory Register of Interests which is kept by the Service Head, Democratic Services on behalf of the Monitoring Officer.

	<b>PAGE NUMBER</b>	<b>WARD(S) AFFECTED</b>
<b>3. UNRESTRICTED MINUTES</b>		
To confirm as a correct record of the proceedings the unrestricted minutes of the ordinary meeting of the Strategic Development Committee held on 20 <sup>th</sup> September 2007.	<b>1 - 8</b>	
<b>4. RECOMMENDATIONS</b>		
To RESOLVE that, in the event of amendments to recommendations being made by the Committee, the task of formalising the wording of any amendments be delegated to the Corporate Director Development and Renewal along the broad lines indicated at the meeting.		
<b>5. PROCEDURE FOR HEARING OBJECTIONS</b>		
To NOTE the procedure for hearing objections at meetings of the Strategic Development Committee.	<b>9 - 10</b>	
<b>6. DEFERRED ITEMS</b>	<b>11 - 12</b>	
<b>6 .1 721-737 Commercial Road and 2-22 Lowell Street, Commercial Road, London</b>	<b>13 - 56</b>	<b>Limehouse</b>
<b>7. PLANNING APPLICATIONS FOR DECISION</b>	<b>57 - 58</b>	
<b>7 .1 Site south of Westferry Circus and west of Westferry Road, London</b>	<b>59 - 118</b>	<b>Millwall</b>
<b>7 .2 Site at 61-75 Alie Street, 17-19 Plough Street and 20 Buckle Street, Alie Street, London</b>	<b>119 - 146</b>	<b>Whitechapel</b>
<b>7 .3 King Henry Stairs, Wapping Pier, Wapping High Street, London</b>	<b>147 - 214</b>	<b>St Katharine's &amp; Wapping</b>
<b>8. SPECIAL PLANNING CONSIDERATIONS</b>		
<b>8 .1 33-37 The Oval, London, E2 9DT</b>	<b>215 - 312</b>	<b>Bethnal Green North</b>
<b>8 .2 Millennium Quarter and Docklands Light Railway - Deed of Variation</b>	<b>313 - 320</b>	<b>Blackwall &amp; Cubitt Town; Millwall;</b>

**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE STRATEGIC DEVELOPMENT COMMITTEE**

**HELD AT 7.30 P.M. ON THURSDAY, 20 SEPTEMBER 2007**

**COUNCIL CHAMBER, 1ST FLOOR, TOWN HALL, MULBERRY PLACE, 5 CLOVE  
CRESCENT, LONDON, E14 2BG**

**Members Present:**

Councillor Rofique U Ahmed (Chair)

Councillor Helal Abbas (Vice-Chair)

Councillor M. Shahid Ali

Councillor Joshua Peck

Councillor Shahed Ali

**Other Councillors Present:**

Councillor Philip Briscoe

Councillor Rupert Eckhardt

Councillor Shirley Houghton

**Officers Present:**

Suki Binjal – (Interim Head of Non-Contentious Team, Legal Services)

Stephen Irvine – (Development Control Manager, Planning)

Michael Kiely – (Service Head, Development Decisions)

Terry Natt – (Strategic Applications Manager)

Dianne Phillips – (Legal Adviser)

Alison Thomas – (Manager, Social Housing Group)

Louise Fleming – (Senior Committee Officer)

**1. APOLOGIES FOR ABSENCE**

Apologies were received from Councillors Sirajul Islam, Rania Khan and Simon Rouse. Councillor Shahed Ali deputised for Councillor Rania Khan.

**2. DECLARATIONS OF INTEREST**

Councillor M. Shahid Ali declared a personal interest in item 7.1, which related to 721-737 Commercial Road and 2-22 Lowell Street, Commercial Road, London, as the Ward member for Limehouse.

Councillor Shahed Ali declared a personal interest in item 7.1 as he had been a member of the Overview & Scrutiny Committee which met on 7<sup>th</sup> November to discuss the call-in relating to the decision of the Cabinet, on 4<sup>th</sup> October 2006, to dispose of 723 Commercial Road and 2-22 Lowell Street.

### **3. UNRESTRICTED MINUTES**

The minutes of the meeting held on 21<sup>st</sup> June 2007 were agreed and approved as a correct record by the Chair.

### **4. RECOMMENDATIONS**

The Committee RESOLVED that, in the event of amendments to recommendations being made, the task of formalising the wording of any amendments be delegated to the Corporate Director of Development & Renewal, along the broad lines indicated at the meeting.

### **5. PROCEDURE FOR HEARING OBJECTIONS**

The Committee noted the procedure and those who had registered to speak.

### **6. DEFERRED ITEMS**

The Committee noted that the deferred item relating to the News International site at the south east junction of the Highway and Vaughan Way, London E1 would be removed from future deferred item reports as the Council had requested a new Environmental Impact Assessment to be carried out by the applicant, which would mean a new report on the application being submitted to the Committee on its completion.

### **7. PLANNING APPLICATIONS FOR DECISION**

#### **7.1 721-737 Commercial Road and 2-22 Lowell Street, Commercial Road, London**

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the demolition of existing buildings and redevelopment up to 14 storeys to provide 319 units (19 residential units (9 x studio; 107 x 1 bed; 119 x 2 bed; 79 x 3 bed and 5 x5 bed)) residential units and 675 sqm commercial (Class A2, A3, A4, B1, D1 and D2) space at 721-737 Commercial Road and 2-22 Lowell Street, Commercial Road, London.

Mr David Smith spoke in objection on behalf of the Salmon Lane Mission Trustees, on the grounds of loss of light to the church due to the scale and height of the buildings. He was also concerned about the potential traffic, noise and pollution which would be created.

Mr Simon Dunn-Lwin spoke on behalf of the applicant. He informed the Committee that the application had been revised following concerns raised through the consultation process. Both the Greater London Authority (GLA) and English Heritage supported the scheme, and officers were of the view that the development was acceptable. Four highways experts had assessed the traffic impact and were satisfied. The development also complied with BRE guidelines in respect of daylight/sunlight.

Mr Terry Natt, Acting Strategic Applications Manager, presented a detailed report on the application and outlined the main objections received and the material considerations for the Committee when making its decision. He advised Members that the revisions to the scheme had satisfied both the GLA and the Council's design officers. He detailed the most affected properties in terms of loss of light and the methods used to measure any loss. He informed the Committee that the average daylight to adjacent properties complied with minimum standards in the BRE guidelines and was not significant enough to warrant a refusal. The development complied with policy relating to parking, amenity space and affordable housing provision and was therefore considered to be acceptable.

Members expressed concern over the potential loss of light to the adjacent non-residential buildings, and that an assessment had only been made of the residential elements. Members asked a number of questions relating to the impact on the terraced block of listed properties, allocation of car parking spaces and the positioning of affordable housing within the site.

The Committee unanimously RESOLVED that the application for planning permission for the demolition of existing buildings and redevelopment up to 14 storeys to provide 319 units (319 residential units (9 x studio; 107 x 1 bed; 119 x 2 bed; 79 x 3 bed and 5 x 5 bed)) residential units and 675 sqm commercial (Class A2, A3, A4, B1, D1 and D2) space at 721-737 Commercial Road and 2-22 Lowell Street, Commercial Road, London be DEFERRED to allow a daylight/sunlight assessment on the non-residential elements adjacent to the proposed site to be carried out.

## **7.2 4 Mastmaker Road, London E14**

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the alterations of previously approved scheme ref PA/05/1781, for the development of buildings up to 23 storeys in height comprising 199 residential units, associated retail (A1) or food and drink (A3/A4) and community uses (D1/D2), together with new access arrangements, parking, open space and landscaping at 4 Mastmaker Road, London E14.

Mr Don Marshall spoke on behalf of the residents objecting to the scheme, on the grounds of overdevelopment.

Mrs Rita Bensley spoke on behalf of the residents objecting to the scheme, on the grounds of overdevelopment and lack of amenity space.

Mr Steven Brown spoke on behalf of the applicant. He reminded Members that the principle of the development had already been agreed, and that the amendments to the scheme would provide 9 additional units, of which 6 of those would be affordable. There would be an increase in family sized units. The proposal met the relevant guidelines and also included play space and a community centre.

Councillor Rupert Eckhardt spoke on behalf of the Millwall ward. He felt that the revisions had downgraded the scheme. There was a lack of education and healthcare provision. He was of the view that applicants who submitted a series of revised schemes to ones which had previously been approved were undermining the credibility of the Council as Local Planning Authority. He asked the Committee to refuse the scheme to enable the extant permission to be built.

Mr Terry Natt, Acting Strategic Applications Manager, presented detailed report on the application. He detailed the changes in the scheme from that which had previously been approved and outlined the material planning considerations for the Committee. The benefits of the new scheme would include a better mix of family housing, amenity space and health centre, a management plan for which would be secured by condition.

Members asked questions relating to the number of additional children which would be created by the proposed scheme and the reduction in ceiling heights. The Committee was advised that there would be a potential 22 extra children, and that the reduced ceiling heights complied with Building Regulations.

The Committee unanimously RESOLVED that planning permission for the alterations of approved scheme ref PA/05/1781, for the development of buildings up to 23 storeys in height comprising 199 residential units, associated retail (A1) or food and drink (A3/A4) and community uses (D1/D2), together with new access arrangements, parking, open space and landscaping at 4 Mastmaker Road, London E14 be GRANTED subject to

- A The prior completion of a legal agreement, to the satisfaction of the Assistant Chief Executive (Legal Services) to secure the following:
  - a) A total of 142 affordable housing units (530 habitable rooms). The affordable housing consists of 24 units (71 habitable rooms) provided onsite associated with the onsite private housing and 118 units (459 habitable rooms) provided onsite associated with the scheme at 1 Millharbour (PA/05/1782) and in accordance with the mix and type as specified in Section 7.7.7 of the report. The overall tenure mix set at 69% social rented and 31% intermediate housing;
  - b) Provide £305,465 towards the improvements and upgrades of the transport infrastructure, public realm and open spaces, provision of training and employment and securing community facilities and



- achieving the objectives of the Millennium as set out within the Millennium Quarter Master Plan;
- c) Provide £261,475 towards education to mitigate the demand of the additional population on education facilities;
  - d) Provide £837,895 towards medical facilities to mitigate the demand of the additional medical facilities;
  - e) Secure Public Access Routes through the site;
  - f) Secure the connection to and use the Barkentine Combined Heat and Power Unit;
  - g) A Travel Plan (for both the commercial and residential component) which promotes sustainable transport by reducing dependency on the private motor car and implements a shift towards more environmentally sustainable means of servicing the travel requirements of occupants and visitors;
  - h) The use of local Labour in Construction and the occupation of the development;
  - i) Compliance with a post construction Environmental Management Plan;
  - j) Details of a monitoring and control regime (Liaison Group) to secure the delivery of development works associated with the development (as set out in Schedule 1 of the signed S106 agreement for PA/05/01781);
  - k) Section 72 and 38 agreement to widen Byng Street to provide a footpath along the site;
  - l) A car free agreement to restrict the occupiers from applying for residents parking permits in the area;
  - m) Improvements/connection to the existing children's play space; and
- B That the Head of Development Decisions be delegated authority to impose conditions and informatives on the planning permission to secure the following:

#### Conditions

- 1) Time limit on Full Planning Permission
- 2) Details of the following are required:
  - Elevational treatment including samples of materials for external fascia of building;
  - Ground floor public realm (detailed landscape plan for amenity courtyards and ground floor public realm improvements);
  - Means of enclosure;
  - Refuse provision;
  - External lighting and security measures; and
  - Design of lower floor elevations (shopfronts)
- 3) Landscape Management Plan required;
- 4) Detailed parking layout, including parking maximum cars and minimum cycle and motorcycle spaces;
- 5) Construction in accordance with Lifetime Homes standards;

- 6) Hours of construction limits (0800 – 1900, Mon-Fri; 0800 – 1300 Sat);
- 7) Construction work limitations;
- 8) Foundation design and ground works;
- 9) Details required for soil survey, including pollution of water;
- 10) Programme of archaeological work;
- 11) Defined management of microclimate studies and remedial measures included in the Environmental Statement;
- 12) Detailed Environmental Management Plan;
- 13) Detailed Air Quality Management Plan;
- 14) Construction Traffic Management Plan, including matters such as noise, dust and nuisance;
- 15) Management of construction transportation;
- 16) Detailed Environmental Management Plan, including matters such as noise, dust and nuisance; Restriction of ground borne vibration;
- 17) Restriction of ground borne vibration;
- 18) Details of surface water source control measures required;
- 19) 278 agreement to be entered into for Highway works surrounding the site;
- 20) Signage strategy for site; and
- 21) Any other condition(s) considered necessary by the Head of Development Decisions.

#### Informatives

- 1) Use of highest quality of materials;
  - 2) Requirements of Control of Pollution Act 1974;
  - 3) Compliance with Environmental management Plan;
  - 4) Compliance with Millennium Quarter Code of Construction Practice;
  - 5) Implementation of green biodiversity objectives;
  - 6) Encourage to use all sources of transportation during construction;
  - 7) Consideration of the environmental information in connection with the development as required by the Town and Country Planning (EIA) Regulations 1999;
  - 8) Environment Agency advice; and
  - 9) Highway works as required under Section 278/72/38 of the Highways Works Act.
- C That if by 21<sup>st</sup> December 2007 the legal agreement has not been completed to the satisfaction of the Assistant Chief Executive (Legal Services), the Head of Development Decisions be delegated (authority to refuse planning permission.
- D That the Committee agree the variation of the Section 106 legal agreement (of the planning application PA/05/01782, approved on 20<sup>th</sup> June 2007) for the development at number 1 Millharbour by updating the off-site affordable housing provision schedule, in Schedule 2, Part 2.

### 7.3 1 Park Place, London E14 4HJ

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the erection of a new building providing basement, lower ground, ground and 10 storeys of offices comprising 25,643 metres of floor space with associated landscaping, car parking, servicing and plant at 1 Park Place, London E14 4HJ.

Mr Terry Natt, Acting Strategic Applications Manager, presented a detailed report on the application. He informed the Committee that it was a replacement application to one which had already been approved. It was an appropriate use and a modest office scheme in its location. There would also be a £1.5 million contribution to off-site affordable housing.

The Committee RESOLVED that planning permission for the erection of a new building providing basement, lower ground, ground and 10 storeys of offices comprising 25,643 sq metres of floor space with associated landscaping, car parking, serving and plant at 1 Park Place, London E14 4HJ be GRANTED subject to

A The prior completion of a legal agreement to secure the following:

- 1) Community Contribution – a sum of £92,101
- 2) Highways Contribution – a sum of £50,000 (various works)
- 3) Commitment to Local Labour in Construction – a sum of £75,000
- 4) Off-site affordable housing Contribution - £1,466,899
- 5) Provision of Walkway and Public Art
- 6) Travel Plan

B That the Head of Development Decisions be delegated authority to impose conditions and informatives on the planning permission to secure the following:

- 1) Time Limit
- 2) Reserved matters regarding
  - Materials, including samples;
  - Hard and soft landscaping including dockside walkway;
  - Any proposed walls, fences and railings;
  - Enclosure of any external plant; and
  - A scheme of external lighting.
- 3) Landscape Management Plan required
- 4) 278 agreement to be entered into for Highway works surrounding the site
- 5) Parking maximum cars and minimum cycle and motorcycle spaces
- 6) Hours of construction limits (0800 – 1800, Mon-Fri; 0800 – 1300 Sat)
- 7) Details of insulation of the ventilation system and any associated plant required.
- 8) Hours of operation limits – hammer driven piling (10am to 4pm)
- 9) Details of on-site drainage works

- 10) Code of Construction Practice, including a Construction Traffic Management Assessment required.
- 11) Details of finished floor levels required.
- 12) Details of surface water source control measures required.
- 13) Renewable energy measures to be implemented and provided in perpetuity.
- 14) Black redstart habitat provision required.
- 15) Green roofs
- 16) Land contamination study required to be undertaken.
- 17) Any other condition(s) considered necessary by the Head of Development Decisions.
- 18) British Waterways Condition

#### Informatives

- 1) Planning Obligation Agreement
- 2) British Waterways requirements
- 3) Site notice specifying the details of the contractor required.

C That if by 20<sup>th</sup> December 2007, the legal agreement has not been completed to the satisfaction of the Assistant Chief Executive (Legal Services), the Head of Development Decisions be delegated authority to refuse planning permission.

The Committee RESOLVED that officers write to (which Govt dept?) to express the Committee's concern relating to the ability of the Commission of Architecture for the Built Environment (CABE) to comment on strategic planning applications, due to its heavy workload.

The meeting ended at 8.46 p.m.

Chair, Councillor Rofique U Ahmed  
Strategic Development Committee

# Agenda Item 5

## DEVELOPMENT COMMITTEE STRATEGIC DEVELOPMENT COMMITTEE

### PROCEDURES FOR HEARING OBJECTIONS AT COMMITTEE MEETINGS

#### Provisions in the Council's Constitution (Part 4.8) relating to public speaking:

- 6.1 Where a planning application is reported on the "Planning Applications for Decision" part of the agenda, individuals and organisations which have expressed views on the application will be notified by letter that the application will be considered by Committee at least three clear days prior to the meeting. The letter will explain these provisions regarding public speaking.
- 6.2 When a planning application is reported to Committee for determination the provision for the applicant/supporters of the application and objectors to address the Committee on any planning issues raised by the application, will be in accordance with the public speaking procedure adopted by the relevant committee from time to time (see below).
- 6.3 All requests to address a committee must be made in writing or by email to the committee clerk by 4pm on the Friday prior to the day of the meeting. This communication must provide the name and contact details of the intended speaker. Requests to address a committee will not be accepted prior to the publication of the agenda.
- 6.4 After 4pm on the Friday prior to the day of the meeting the Committee clerk will advise the applicant of the number of objectors wishing to speak.
- 6.5 The order of public speaking shall be as stated in Rule 5.3, which is as follows:
  - An objector who has registered to speak
  - The applicant/agent or supporter
  - Non-committee member(s) may address the Committee for up to 3 minutes
- 6.6 Public speaking shall comprise verbal presentation only. The distribution of additional material or information to members of the Committee is not permitted.
- 6.7 Following the completion of a speaker's address to the committee, that speaker shall take no further part in the proceedings of the meeting unless directed by the Chair of the Committee.
- 6.8 Following the completion of all the speakers' addresses to the Committee, at the discretion of and through the chair, committee members may ask questions of a speaker on points of clarification only.
- 6.9 In the interests of natural justice or in exceptional circumstances, at the discretion of the chair, the procedures in Rule 5.3 and in this Rule may be varied. The reasons for any such variation shall be recorded in the minutes.
- 6.10 Speakers and other members of the public may leave the meeting after the item in which they are interested has been determined.

#### Public speaking procedure adopted by this Committee:

- For each planning application up to two objectors can address the Committee for up to three minutes each. The applicant or his/her supporter can address the Committee for an equivalent time to that allocated for objectors (ie 3 or 6 minutes).
- For objectors, the allocation of slots will be on a first come, first served basis.
- For the applicant, the clerk will advise after 4pm on the Friday prior to the meeting whether his/her slot is 3 or 6 minutes long. This slot can be used for supporters or other persons that the applicant wishes to present the application to the Committee.
- Where a planning application has been recommended for approval by officers and the applicant or his/her supporter has requested to speak but there are no objectors or non-committee members registered to speak, the chair will ask the Committee if any member wishes to speak against the recommendation. If no member indicates that they wish to speak against the recommendation, then the applicant or their supporter(s) will not be expected to address the Committee.

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# Agenda Item 6

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 6
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Deferred items	
<b>Originating Officer:</b> Michael Kiely		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

- 1.1 This report is submitted to advise the Committee of planning applications that have been considered at previous meetings and currently stand deferred. The following items are in that category:

Date deferred	Reference number	Location	Development	Reason for deferral
20 <sup>th</sup> September 2007	PA/06/02081	721-737 Commercial 22 Lowell Street, Commercial Road, London	Demolition of existing buildings and redevelopment up to 14 storeys to provide 319 units (319 residential units (9 x studio; 107 x 1 bed; 119 x 2 bed; 79 x 3 bed and 5 x 5 bed)) residential units and 675 sqm commercial (Class A2, A3, A4, B1, D1 and D2) space.	To allow a daylight/sunlight assessment on the non-residential elements adjacent to the proposed site to be carried out.

## 2. CONSIDERATION OF DEFERRED ITEMS

- 2.1 Deferred applications may be reported in the Addendum Update Report if they are ready to be reconsidered by the Committee. This report is available in the Council Chamber 30 minutes before the commencement of the meeting.

## 3. RECOMMENDATION

- 3.1 That the Committee to note the position relating to deferred items and make a decision accordingly.

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**LOCAL GOVERNMENT ACT 2000 (Section 97)  
LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT**

Brief Description of background papers:	Tick if copy supplied for register	Name and telephone no. of holder:
Application, plans, adopted UDP. draft LDF and London Plan	✓	Eileen McGrath (020) 7364 5321

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# Agenda Item 6.1

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 6.1
<b>Report of:</b> Corporate Director Development & Renewal		<b>Title:</b> Deferred Item – Addendum Report	
<b>Case Officer:</b> Shay Bugler		<b>Ref No:</b> PA/06/2081	
		<b>Ward(s):</b> Limehouse	

## 1. APPLICATION DETAILS

**Location:** 721-737 Commercial Road and 2-22 Lowell Street, Commercial Road, London

**Existing Use:** The site is currently vacant. (Formally used as an open yard, recycling plant facilities and warehousing).

**Proposal:** Demolition of existing buildings and redevelopment up to 14 storeys to provide 319 units (319 residential units (9 x studio; 107 x 1 bed; 119 x 2 bed; 79 x 3 bed and 5 x 5 bed)) residential units and 675 sqm commercial (Class A2, A3, A4, B1, D1 and D2) space.

**Drawing Nos:** PL/225 Rev A: Section EE Blocks C & E North Elevation

### New composite drawings

PL/500: Upper Ground Floor Plan

PL/501: First Floor Plan

PL/502: Second Floor Plan

PL/503: Third Floor Plan

PL/504: Fourth Floor Plan

PL/505: Fifth Floor Plan

**Applicant:** SURE Estates Ltd

**Owner:** SURE Estate Ltd

**Historic Building:** N/A

**Conservation Area:** N/A

## 2. BACKGROUND

### Addition Daylight/Sunlight study

- 2.1 The proposal was deferred at the Strategic Development Committee on the 20<sup>th</sup> September 2007. The Committee requested that a daylight/sunlight assessment be carried out to assess the impact the proposed development would have on the daylight and sunlight levels to Salmon Lane Evangelical Church.

### **3. ADDITIONAL INFORMATION**

The applicant has submitted the following report to assess the application:

- Daylighting / Sunlighting Report on the Salmon Lane Evangelical Church by Drivers Jonas dated 12<sup>th</sup> October 2007.

#### Policy Context

- 3.1 Policy 4B.9 of the London Plan refers to the design and impact of large scale buildings and includes the requirement that in residential environments particular attention should be paid to privacy, amenity and overshadowing.
- 3.2 DEV 2 of the UDP seeks to ensure that the adjoining buildings are not adversely affected by a material deterioration of their daylighting and sunlighting conditions. Supporting paragraph 4.8 states that DEV2 is concerned with the impact of development on the amenity of residents and the environment.
- 3.3 Policy DEV1 of the Council's Interim Planning Guidance stipulates that development is required to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm. The policy includes the requirement that development should not result in a material deterioration of the sunlighting and daylighting conditions of surrounding habitable rooms.

#### Further daylight/sunlight assessment

- 3.4 The applicant appointed Drivers Jonas to undertake a daylight and sunlight analysis on the effects of the proposed redevelopment of 723-737 Commercial Road on the non-residential elements of the Salmon Lane Evangelical Church.
- 3.5 The daylight/sunlight analysis has been carried out at the request of the Committee.
- 3.6 Driver Jonas analysis was carried out using residential standards for daylight sunlight levels for habitable rooms as recommended in the BRE guidelines. This is because there are no guideline standards for daylight levels to church halls or non residential properties. It is important to note that if the Church Hall was residential, it would pass the ADF tests.
- 3.7 The Vertical Sky Component (VSC) test was first undertaken. This involves using a skylight indicator, which calculates the Vertical Sky Component at the centre point of each affected window. The occupants of the existing building will notice a reduction in the amount of daylight when the VSC is less than 27% and less than 0.8 of its former value. The results conclude that all rooms in the church building fail the vertical sky component test as all windows fall below the ratio reduction test when compared against the existing situation, with levels ranging from 0.4 to 0.7.

- 3.8 The VSC test demonstrates that in comparison to the existing situation the rear windows of the Church will have a reduction in daylight below the recommended values suggested in the BRE guidelines. This is inevitable given the development site is largely under developed and the proposed development will be in keeping with an inner city environment.
- 3.9 It is important to note that all rooms are non habitable and remain ancillary to the main church hall/worship area. The ancillary rooms to the church including the study room, library and office on the ground floor and an office and committee room/library on the upper ground floor.
- 3.10 The second test used was the Average Daylight Factor (ADF) test which is more reliable than the VSC test because ADF tests take into account a range of variables which the other tests do not. For example, only the ADF test takes into account the size of the window and whether the room has more than one window. These are important factors which affect the level of illumination within a room.
- 3.11 The ADF was used to calculate internal daylighting levels. The daylighting calculations use the formula as set out in the British Standards document BS8206 Pt 2 'Lighting for buildings code of practice for daylighting. The minimum values of ADF in dwellings are 1% for bedrooms, 1.5% for living rooms and 2% for kitchens.
- 3.12 The ADF results were obtained for each room individually and expressed as a percentage. The value used was the minimum room size standards for 1.5% for habitable rooms. Where there were two or more windows within one room the ADF was found separately for each window, and the results calculated.
- 3.13 Table 1: Average Daylight Factor (measured by habitable room's targets as set out in BRE guidance)

Room	Target	Existing	Proposed	Target
Store/study (ground floor)	1.5%	0.2%	0.2%	fail
Archive store/ground floor (ground floor)	1.5%	0.4%	0.3%	fail
Kitchen (lower ground)	1.5%	2.8%	1.9%	pass
Library (basement)	1.5%	1.2%	0.8%	fail
Office study (upper ground)	1.5%	0.9%	0.3%	fail
Pastoral Office	1.5%	1.4%	0.9%	fail
Church Hall/workshop	1.5%	4.4%	3.2%	Pass
Committee	1.5%	2.2%	1.4%	Pass

room				
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- 3.14 From the table above, it is clear that store study room, archive store, library, office study and pastoral office fall below the ADF minimum standards for habitable rooms. However, it must be noted that the existing daylight levels falls below the minimum room size for a living room. Whilst there is a reduction in the amount of daylight levels of these rooms, the rooms are not habitable and remain ancillary to the primary room which is the Church hall/worship room. The archives room and kitchen will still retain satisfactory level of daylight.
- 3.15 The main reason for carrying out the additional daylight/sunlight test was to assess the impact the proposal would have on the main Church hall/worship room and committee room. The table shows that worship area of the church, which the Council considers to be the main area for daylight and sunlight expectation, far exceeds the BRE guideline suggestions with the proposed development in place. Given that the primary room of concern (church hall/worship) exceeds the minimum requirement for daylight, the Council is satisfied that the proposal will not have a detrimental impact on its use.
- 3.16 The proposal will not have an adverse impact on the amenity levels to Salmon Lane Evangelical Church. Furthermore, if the use of the main church were residential, this would be acceptable.

### **Response to Waterslade daylight/sunlight assessment**

- 3.17 Mission Building Management Ltd commissioned Waterslade Ltd to undertake an assessment of the proposed development on the Salmon Lane Mission Buildings as well as comments on the Drivers Jonas July 2006 report:
- 3.18 Waterslade Ltd assessment relies on the three dimensional computer model of a selection of representative rooms and windows in the Mission building as well as the existing building, the proposed scheme and the immediate context.
- 3.19 The assessor notes that points taken for assessment in Drivers Jonas daylight/sunlight report fail the Vertical Sky Component (VSC) tests. The Council accepts that the proposal fails the VSC tests in the previous addendum report. This is why the Average Daylight Factor test was undertaken.
- 3.20 With reference to the ADF calculations, their report identifies failures for 4 rooms only and sunlight failures to 7 rooms, the vast majority of all the habitable rooms pass the ADF tests. The rooms that fall short only fall marginally short and are not significant enough to warrant a refusal. The Waterslade Report highlights ADF failures to 4 rooms and sunlight failures to 6 rooms, and all are situated adjacent to the boundary of our site where the flank windows are situated.

- 3.21 Waterslade asserts that the three living rooms to the front of the Mission building closest to the boundary fail the ADF. The 4th room is located in the rear 3 storey block adjacent to the Church and this room overlook the proposal site, the use of which is not identified in their tabulation, but referred to as a 'living room' in the report.
- 3.22 Nevertheless, the daylight /sunlight reports submitted by Drivers Jonas in July 2006 and June 2007 demonstrate that whilst there is a diminution in the amount of daylight loss at point 2 (flank windows to front of Mission) and point 6 (Waterslade W3/W4/W5/11s as above) Drivers Jonas findings are that ADFs here to the 3 living rooms pass at 2.3%. These are calculated from figures from plans obtained from the architects who designed the refurbishment of the Mission building - CZWG Architects. It is acknowledged that the diminution of daylight is more intense, but the VSC calculation shows a level of 20%, which is considered acceptable.
- 3.23 The sunlight test fails on all 3 floors. These are the flank windows to the Mission located towards the back on the flank wall. The findings in the July 2007 report reveal that the 3 flank windows to the front closest to Commercial Road pass the sunlight test. That leaves the 'living room' referenced by Waterslade (referenced above) and point 6 in the Drivers Jonas report as passing the relevant BRE guidelines.
- 3.24 In summary, 4 windows fail the ADF calculations. The results by Waterslade are correct, the reduction of daylight levels to these windows is not considered to be of a magnitude to warrant a refusal.
- 3.25 Table 2: Reduction of daylight levels to 4 rooms as reported by Waterslade Ltd.

Minimum daylight levels promoted in the BRE guidelines for living rooms	Existing ADF	Proposed ADF	Reduction below minimum standard
1.5%	(R2/11) 1.54%	1.20%	20%
1.5%	(R5/21) 2.06%	1.3%	13%
1.5%	(R5/22) 1.99%	1.18%	22%
1.5%	(R5/23) 2.03%	1.24%	17%

- 3.26 With reference to sunlight, the Council acknowledges that the rear flank windows to 3 bedrooms fail on all floors, but the 3 front living rooms pass.
- 3.27 The Council needs to further investigate the findings from the daylight/sunlight study from Waterslade. In addition, a more detailed response to the points raised by Waterslade report will follow and will be available prior to the committee meeting.

### **The impacts the proposal will have on the neighbouring site**

3.28 A letter dated 4<sup>th</sup> October 2007 was received by the Council from mgl architects who are acting on behalf of the developer for 25 -28 Dalgleish Street (the site behind the subject site). This letter raised concerns with the proposed development and the potential impact it may have on their site. This was not raised as an issue when it previously went to Committee. The impact the proposal could potentially have on 25-28 Dalgleish Street was not raised at the previous meeting. Although this objection letter was only received post the previous meeting, the Council considers it important to address the concerns that were raised:

- The four storey block of news houses (Block F) will result in an unacceptable loss of daylight/sunlight to the listed buildings on Commercial Street .
- The proposal would not prejudice the development potential of the English National Opera.
- The applicant has not assessed the levels of daylight and sunlight that will be achieved to the proposed dwellings, which would highlight the issue of the relationship between the two sites.
- The implications of a proposed part 6/part 14 storey tall building and its potential to prejudice amenity space and daylight/sunlight of 25-28 Dalgleish Street.

### **Response to the above concerns**

3.39 Firstly, it is worth noting that amendments have already been made to the scheme in order not to prejudice the development rights of the ENO site. The footprint of Block G has been reduced since the proposal was originally submitted which demonstrates a greater degree of sensitivity to its context and sympathetic to the setting of the listed building. The junction between the listed terrace and the west pavilion has also been resolved to the satisfaction of the Council. The height of Block E (West Pavilion) was reduced from 7 to 6 storeys. The plan of Block E West Pavilion was revised at the south end of the building to minimise impact on neighbouring terrace.

3.40 In response to the particular points raised in the letter, the Council has the following specific comments to make:

3.41 With reference to Block F, the objector believes that the proposal will result in a loss of daylight/sunlight to the development to the north and the listed buildings to the south. The internal daylighting report carried out shows there are no daylight issues to Block F. The upper ground floor plans shows the bedrooms adhere to the guidelines. The first floor level living rooms achieve a good daylight level apart from one larger dining room to the far east of the block which falls below the BRE guidelines. (If the window width were increased by 450mm to the dining room then this room would adhere to the BRE guidance). However, overall, the proposal adequately complies with the BRE guidance.

- 3.42 With reference to Block A (The Tower), the tower has been designed to minimise impact and facilitate the potential development of the ENO site. The Council does not believe that the proposed Block A would adversely impact on the development potential of 25 to 28 Dalgleish Street. It is not possible to carry out a daylight/sunlight assessment as there are at present no definitive proposals for any development of the ENO site. As such, the proposal cannot in its current state prejudge daylight/sunlight levels to the ENO site.

Further security measures for 1<sup>st</sup> to 3<sup>rd</sup> floor of building adjacent to Mission Building

- 3.43 The agent has submitted new composite enlarged plans (PL 500 to 505) showing junction details of the East Pavillion Building with The Mission and the Church. The side windows of The Mission, particularly to units 204 and 305 are indicated on the drawings. These plans are attached as Appendices 2 to 7.
- 3.44 Privacy /security screens to the projecting balconies have been added to the rear and at roof terrace level to the front, to prevent loss of privacy and access on to the flat roof of the building immediately adjoining The Mission. There is no access at roof at first floor level. The latter was previously a perceived security issue and this is now eliminated (refer to attached composite drawing numbers: PL500 to 505). Therefore, the Council considers that this sufficiently addresses the concerns raised.
- 3.45 Minor amendments have been made to the Wilson's Place elevation. The previous plan showed the bike shed to be two storeys. The new plan for the North elevation to blocks C & E shows the relationship of the Church access and the proposed building more clearly and corrects the height of the bike shed, which is a single storey. Therefore, the impact of the bike shed on the church has been reduced to the satisfaction of the Council.

**4. RECOMMENDATION**

- 4.1 My recommendation is unchanged (approval). The previous report is attached as Appendix 1 to this report.

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**APPENDIX 1****APPENDIX 1**

<b>Committee:</b> Strategic Development	<b>Date:</b> 20 <sup>th</sup> September 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 7.1
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Shay Bugler		<b>Ref No:</b> PA/06/02081	
		<b>Ward(s):</b> Limehouse	

**1. APPLICATION DETAILS**

**Location:** 721-737 Commercial Road and 2-22 Lowell Street, Commercial Road, London

**Existing Use:** The site is currently vacant. (Formally used as an open yard, recycling plant warehousing).

**Proposal:** Demolition of existing buildings and redevelopment up to 14 storeys to provide 319 units (319 residential units (9 x studio; 107 x 1 bed; 119 x 2 bed; 79 x 3 bed and 5 x 5 bed)) residential units and 675 sqm commercial (Class A2, A3, A4, B1, D1 and D2) space.

**Drawing Nos:** PL/100 Rev B: Site layout  
 PL/101 Rev B: Lower Ground Floor Plan  
 PL/102 Rev B: Upper Ground Floor Plan  
 PL/103 Rev C: First Floor Plan  
 PL/105 Rev B: Second Floor Plan  
 PL/105 Rev B: Third Floor Plan  
 PL/106 Rev C: Fourth Floor Plan  
 PL/107 Rev B: Fifth Floor Plan  
 PL/108 Rev B: Sixth Floor Plan  
 PL/109 Rev A: Seventh Floor Plan  
 PL/110 Rev A: Eight, ninth, tenth & eleventh floor plans  
 PL/114 Rev A: Twelfth Floor Plan  
 PL/115 Rev A: Thirteenth Floor Plan  
 PL/116 Rev B: Roof Plan  
 PL/251 Rev A: Block B Details of West Elevation  
 PL/121 Rev A: Block G Revised Plans  
 PL/200 Rev A: Section AA  
 PL/201: Section BB Block B West Elevation  
 PL/202 Rev A: Section CC Block B West Elevation  
 PL/203 Rev A: Section DD (Along Wilson's Place)  
 PL/204 Rev A: Section EE  
 PL/205 Rev B: Section FF Lower Street Elevation  
 PL/207 Rev A: Section HH  
 PL/220 Rev A: Block E South Elevation (Commercial Road)  
 PL/221: Blocks B & D South Elevation  
 PL/222 Rev A: Block E East Elevation  
 PL/223 Block B: West Elevation  
 PL/224: Section HH: Block B,C & D Garden elevations  
 PL/225: Section EE Blocks C & E North Elevation  
 PL/226 Rev A: Block A South Elevations (Wilson's Place Elevation)

PL/227 Rev A: Block A North East Elevation  
 PL/228 Rev A: Blocks A North Elevation  
 PL/229 Rev A: Front and Rear of Houses North Elevation South Elevation  
 PL/230 Rev B: Block G. East Elevation  
 PL/231 Rev A: Block G South Elevations (Mews Elevation)  
 PL/232 Rev B: Block G West Elevation (Lower Street Elevation)  
 PL/233 Rev B: Block G North Elevation (Dalglish Street)  
 PL/235 Rev A: Section through courtyard  
 PL/250: Details of South elevation  
 PL/251 Rev A: Block B Detail of West Elevation  
 PL/252 Rev A: Detail elevation extract (Wilson's Place Elevation)  
 PL/254: Detail of South Elevation West Pavillion Block  
 PL/255: Details of Mews Houses  
 PLS1002 Rev A: Lower Ground Amenity Plan  
 PLSI003 Rev A: Upper ground floor amenity Plan  
 PLSI004 Rev A: First floor amenity plan  
 PLSI 005 Rev A: Second floor amenity plan  
 PLSI Rev A: Third floor amenity plan  
 PLSI 007 Rev A: Fourth floor amenity plan  
 PLS1 008 Rev A: Fifth floor amenity plan  
 PLSI 009 Rev A: Sixth floor amenity plan  
 PLSI\_010 Rev A: Seventh floor amenity plan  
 PLSI001 Rev A: Twelfth floor amenity plan  
 PLSI012 Rev A: Thirteenth floor amenity plan

The following list of accompanying technical reports also forms part of this application:

- Design Statement - Stock Woolstencroft
- Drainage sustainability social impact – Stock Woolstencroft
- Planning Statement - Stock Woolstencroft
- Noise and vibration day and sunlight microclimate- paragons acoustics
- Daylight and sunlight report - Stoke Woolstencroft
- Proposed Redevelopment of 723-737 Commercial Road, London, E14 (Addendum BRE Daylight/Sunlighting Report 27<sup>th</sup> June 2007)
- Microclimate - Cambridge architectural research
- Sustainability - esd
- Landscape and ecology report - Studio Engleback
- Supplementary Information Transport - Stock Woolstencroft
- Supplementary Information sustainable energy strategy June 2007 - Stock Woolstencroft

**Applicant:** SURE Estates Ltd  
**Owner:** SURE Estate Ltd  
**Historic Building:** N/A  
**Conservation** N/A

## 2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

- 2.1 The Local Planning Authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan, the Council's emerging Local Development Framework

Submission Document, associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that:

- (a) In principle, the proposed development is acceptable, subject to an appropriate planning obligations agreement and conditions to mitigate against the impact of the development.
- (b) The proposed development would result in a sustainable, high quality, high density scheme with an acceptable level of affordable housing and associated tenure split and a good dwelling mix. This would contribute to the regeneration of the wider area and that is considered to be in the interests of good strategic planning in London.
- (c) It is considered that the proposed uses would not have an adverse impact on the residential amenity of any nearby properties. A number of conditions are recommended to secure submission of details of materials, landscaping, external lighting and to control noise and hours of construction.
- (d) The proposed development would deliver regeneration benefits comprising: improved townscape; modern employment facilities; and new residential accommodation.

### **3 RECOMMENDATION**

**3.1** That the Committee resolve to **GRANT** planning permission subject to:

**3.2 A.** Any **direction** by **The Mayor**

**3.3 B.** The completion of a **legal agreement**, to the satisfaction of the Chief Legal Officer to be completed within 3 months from the date of the committee to secure the following:

- Affordable Housing provision at 35% of the habitable rooms with a 70/30 split between affordable rented/shared ownership to be provided on site.
- A contribution of £266,100 to mitigate the demand of the additional population on health care facilities.
- A contribution of £530,000 to mitigate the demand of the additional population on education facilities
- A contribution of £219,000 towards Employment and training initiatives.
- A contribution of £35,000 towards TfL bus stop
- A contribution of £20,000 to TfL signal booster to DLR or DAISY screen
- A contribution of £300,000 for Community initiatives (refurbishing and upgrading of nearby community centre
- A contribution of £41,000 for upgrade works to Stonebridge Wharf
- 'Car Free' agreement
- LLIC
- TV/radio reception mitigation

- Travel Plan

3.4 **C.** That the Head of Development Decisions be delegated authority to impose conditions and informatives on the permission to secure the following:

- 1) Permission valid for 3 years
- 2) Submission of samples / details / full particulars
- 3) Submission of a Secured by Design Statement
- 4) Submission of desktop study report for land contamination
- 5) Submission of details of site drainage
- 6) Submission of details of site foundations
- 7) Submission of an Investigation and remediation measures for land contamination
- 8) Provision of a minimum of **319** cycle spaces for the residential component of the scheme
- 9) Submission of a traffic management plan detailing all routes to be used by construction maintenance programmes and also detailing how sustainable travel to and from the proposed development will be provided amongst residents and staff working on the site.
- 10) Parking, access and loading/unloading, manoeuvring
- 11) No parking on site, other than in the basement car park
- 12) Vehicular access
- 13) Refuse and recycling facilities
- 14) Hours of Construction (8.00am to 6.00pm Monday to Friday 9.00am to 5.00pm on Saturdays and not at all on Sunday or Bank holidays)
- 15) Power/hammer driven piling/breaking (10am – 4pm Monday – Friday)
- 16) Submission of full details of the proposed lighting and CCTV scheme.
- 17) Any other condition(s) considered necessary by the Head of Development Decisions.
- 18) Lifetime Homes
- 19) 10% Disabled Access
- 20) Renewable Energy Measures (at least 10% reduction in carbon dioxide emissions)
- 21) Applicant to use a 35 kilo Watt electrical combined heat and power plant.
- 22) Further archaeological work or historic building assessment as necessary, to establish the actual impact of development so an appropriate mitigation strategy can be implemented.
- 23) Any other condition(s) considered necessary by the Head of Development Decisions

### 3.5 **Informatives**

- 1) Section 106 of the Town and Country Planning Act 1990.
- 2) Locally native plant species on site, of UK genetic origin.
- 3) Adequate sewerage infrastructure in place
- 4) With regard to (Decontamination), contact Council's Environmental Health Department
- 5) Code of Construction Practice, discuss this with Council's Environmental Health Department
- 6) Consult with the Councils Highways Development Department regarding any alterations to the public highway
- 7) During construction consideration must be made to other developments within the area and the impact to traffic movements on Commercial Road

3.6 That if by the **20<sup>th</sup> December 2007** the legal agreement has not been completed to the satisfaction of the Chief Legal Officer; the Head of Development Decisions be delegated authority to refuse planning permission.

## 4 **PROPOSAL AND LOCATION DETAILS**

### **Proposal**

- 4.1 The planning application is for the demolition of existing Council depot buildings and for the redevelopment of up to 14 storeys to provide 319 (9 x studio; 107 x 1 bed; 119 x 2 bed; 79 x 3 bed; and 5 x 5 bed) residential units and 675 sqm commercial (Class A2, A3, A4, B1, D1 and D2) space
- 4.2 The tenure of the accommodation includes:

**Table 1: Tenure and dwelling mix**

<b>Tenure</b>	studio	1 bed	2 bed	3 bed	4 bed	5 bed
Affordable rent	0	21	24	22	0	5
Shared ownership	0	11	13	8	0	0
Private market	9	75	82	49	0	0

- 4.3 The proposal includes public open space, in the form of a public square, communal landscaped areas, private gardens, roof terraces and balconies. Basement and undercroft car parking for 79 spaces, including disabled spaces.
- 4.4 The layout of the site is informed by the configuration of the site boundary. Wilson's Place is the current rear vehicular access from Salmon Lane to 723 Commercial Road. 22 Lowell Street has its own separate vehicular access from Dalgleish Street. The proposed layout extends and links Wilson's Place through the site, with the current public square to the south on to Commercial Road and with Lowell Street to the west. The new access road through the site facilities both pedestrian and vehicular access for servicing and parking within the site.
- 4.5 On the Commercial Road frontage three 5 storey blocks (Blocks B, D and E), rise to 5 storeys with 6/7 storey set back, which are arranged symmetrically/ around the central public square. Block C to the rear fronts Wilson's Place. A 4 storey junction building is positioned on the western boundary, adjacent to the 4 storey terrace on Grade 2 Listed Buildings. Commercial units straddle the public open space with Blocks E at ground level to create an active frontage on the Commercial Road
- 4.6 The main stepped tower at Block A, rising from a 6 storey element at the rear to 12 and 14 storeys, is positioned immediately behind the public square and aligned in a north-east /south west orientation addressing the new public square to the front on Commercial Road. The tower is linked to the frontage Block E by a 6 storey element that arches over the new access road that links to the frontage the site.

### **Site and Surroundings**

- 4.7 The application site covers an area of 0.77 hectares which includes a section of Wilson's Place.
- 4.8 The site extends from Lowell Street in the west to Salmon Lane to the east, with its main frontage on Commercial Road, wedged in between a terrace of 4 storey Grade 11 Listed residential properties and The Seaman's Mission, situated on the corner of Commercial Road and Salmon Lane.
- 4.9 Commercial Road (A13) is a main arterial route through the Borough which is characterised by a mix of predominantly commercial uses along its length although other uses are present. The predominant land use immediately to the north and south of the site is residential with pockets of commercial uses concentrated along Commercial Road and the local shopping

parade in Salmon Lane. The east side leading up from East India Dock Road to the site and beyond to Limehouse Basin are generally commercial uses in small scale period buildings along the main road frontage.

- 4.10 The site is not located within a Conservation Area. However St. Anne's Conservation Area and Lowell Street Conservation Area abut the site. To the south east is the Grade I Listed Church of St. Anne's Conservation Area, but the majority of residential properties within the immediate area comprises mainly purpose built blocks of flats of varying heights , 2/3 storey period properties and commercial, ecclesiastical and civic buildings.
- 4.11 In terms of transport, the site is served by the D3 bus route connecting Wapping with Canary Wharf. Bus D3, 15 and 115 on Commercial Road, directly outside the site, connect to Canning Town and Stratford to the east and the City to the west. Limehouse DLR Station to the South west is approximately a 5 minute walk from the site.
- 4.12 The site is connected within close proximity to transport with Limehouse DLR and Mainline Station located approximately 0.2 miles to the west, Salmon Lane to the east and Dalgleish Street/Fenchurch Street.
- 4.13 The site straddles the boundary between Public Transport Accessibility Level (PTAL) scores 6a and 6b. The London Borough of Tower Hamlets suggests that the portion of the site fronting onto Commercial Road has PTAL scores of 6b (the second highest level). Seven bus services run within 640m of the site. Limehouse rail and DLR station is 370 metres to the west of the site on Commercial Road.

### **Planning History**

- 4.14 The following planning decisions are relevant to the application:

PA/06/135 Request for Screening Opinion as to whether redevelopment by demolition of existing buildings and erection of buildings of 4-9 storeys to provide 722 sq.m. of ground floor commercial space (A1 to A5 and B1 uses) and 305 residential units (C3 use) with approximately 100 car parking spaces and landscaping requires an Environmental Impact Assessment. 27/01/2006

PA/06/463 Request for Scoping Opinion as to the information to be contained within an Environmental Impact Assessment in support of redevelopment by demolition of existing buildings and erection of buildings of 3/6/7 and 15 storeys to provide 630 sq.m. of ground floor commercial space (A1 to A5 and B1 uses) and 345 residential units (C3 use) with approximately 100 car parking spaces and landscaping. Scoping Option issued 14/04/2006

Ref. PL/DC/05/13225 dated 07/01/70: In 1970, planning permission was granted by the former Greater London Council (GLC) for the "redevelopment of petrol filling station and vehicle service buildings at 731-737 Commercial Road for three-storey municipal offices and depot. The site was redeveloped to provide the present buildings and described subsequently as a 'GLC Housing Depot'.

TH12155/10902 2-22 Lowell Street is adjacent to the site, which forms part of the application premises. Planning permission was granted to the GLC for the "erection of 2 storey building for use as a district office' on 15<sup>th</sup> November 1979. In the report to the Council's Planning Committee, the site was described as being 'previously vacant residential'. Subsequent records show approval of details. The present building was completed in June 1980, as verified by the District Surveyors completion certificate on file.

There is reference to the building being used for 'offices and management control unit'.

## 5.0 POLICY FRAMEWORK

5.1 For details of the status of relevant policies see the front sheet for "Planning Applications for Decision" agenda items. The following policies are relevant to the application:

Policies:	DEV1	Design Requirements
	DEV2	Environmental Requirements
	DEV3	Mixed Use Developments
	DEV4	Planning Obligations
	DEV6	High Buildings Outside the Central Area & Business Core
	DEV12	Provision of Landscaping in Development
	DEV13	Design of Landscape Scheme
	DEV50	Noise
	DEV55	Development & Waste Disposal
	DEV56	Waste Recycling
	EMP2	Retaining Existing Employment Uses
	HSG2	Provision for Housing Development
	HSG3	Affordable Housing
	HSG7	Dwelling Mix & Type
	HSG8	Mobility Housing
	HSG9	Density of New Housing Development
	HSG13	Standard of Dwelling
	HSG16	Housing Amenity Space
	T15	Location of New Development
	T17	Planning Standards (Parking)
	T21	Pedestrian Needs in New Development
	T24	Cyclists Needs in New Development
	OS9	Children's Play Space

### Emerging Local Development Framework

Proposals:	CP34	Development Site for residential use ID 39
Core Strategies:	IMP1	Planning Obligations
	CP1	Creating Sustainable Communities
	CP2	Equal Opportunity
	CP3	Sustainable Environment
	CP4	Good Design
	CP5	Supporting Infrastructure
	CP9	Employment Space for Small Businesses
	CP19	New Housing Provision
	CP20	Sustainable Residential Density
	CP21	Dwelling Mix & Type
	CP22	Affordable Housing
	CP25	Housing Amenity Space
	CP38	Energy Efficiency and Production of Renewable Energy
	CP39	Sustainable Waste Management
	CP40	A Sustainable Transport Network
	CP41	Integrating Development with Transport
	CP42	Streets for People
	CP46	Accessible and Inclusive Environments
	CP47	Community Safety
	CP48	Tall Buildings

Policies:	DEV1	Amenity
	DEV2	Character & Design
	DEV3	Accessibility & Inclusive Design
	DEV4	Safety & Security
	DEV5	Sustainable Design
	DEV6	Energy Efficiency & Renewable Energy
	DEV7	Water Quality and Conservation
	DEV8	Sustainable Drainage
	DEV9	Sustainable Construction Materials
	DEV10	Disturbance from Noise Pollution
	DEV11	Air Pollution and Air Quality
	DEV12	Management of Demolition and Construction
	DEV13	Landscaping and Tree Preservation
	DEV15	Waste and Recyclables Storage
	DEV16	Walking & Cycling Routes & Facilities
	DEV17	Transport Assessments
	DEV18	Travel Plans
	DEV19	Parking for Motor Vehicles
	DEV20	Capacity of Utility Infrastructure
	DEV22	Contaminated Land
	DEV27	Tall Buildings Assessment
	EE2	Redevelopment/Change of Use of Employment Sites
	HSG1	Determining Residential Density
	HSG2	Housing Mix
	HSG3	Affordable Housing Provisions in Individual Private Residential and Mixed-use Schemes
	HSG4	Varying the Ratio of Social Rented to Intermediate Housing
	HSG7	Housing Amenity Space
	HSG9	Accessible and adaptable Homes
	HSG10	Calculating Provision of Affordable Housing

### **Planning Standards**

Planning Standard 1: Noise  
 Planning Standard 2: Residential Waste Refuse and Recycling Provision  
 Planning Standard 3: Tower Hamlets Density Matrix  
 Planning Standard 4: Lifetime Homes

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

Design out crime  
 Sound Insulation  
 Residential Space  
 Landscape Requirements

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

Policy 3A.7	Affordable Housing Targets
Policy 3A.8	Negotiating Affordable Housing in Individual Private Residential and Mixed Use Schemes
Policy 3C.2	Matching Development to Transport Capacity
Policy 4A.6	Improving Air Quality
Policy 4A.7	Energy Efficiency and Renewable Energy
Policy 4A.8	Energy Assessment



Policy 4A.9	Providing for Renewable Energy
Policy 4A.10	Supporting the Provision of Renewable Energy
Policy 4A.11	Water supplies
Policy 4A.14	Reducing Noise
Policy 4B.1	Design Principles for a compact city
Policy 4B.2	Promoting world class architecture and design
Policy 4B.3	Maximising the potential of sites
Policy 4B.4	Enhancing the Quality of the Public realm
Policy 4B.5	Creating an inclusive environment
Policy 4B.6	Sustainable Design and construction
Policy 4B.7	Respect Local context and communities
Policy 4B.8	Tall buildings, location
Policy 4B9	Large scale buildings, design and impact
Policy 4C.2	Context for sustainable growth
Policy 4C.8	Sustainable Drainage

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

PPG1	Generally Policy and Principles
PPG3	Housing
PPG13	Transport
PPG24	Planning & Noise
PPS1	Delivering Sustainable Development
PPS22	Renewable Energy
PPS3	Housing
PPS1	Urban Design
PPG13	Transport
PPS1	Access

**Community Plan** The following Community Plan objectives relate to the application:

- A better place for living safely
- A better place for living well
- A better place for creating and sharing prosperity
- A better place for learning, achievement and leisure
- A better place for excellent public services

## **6.0 CONSULTATION RESPONSE**

6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

### **6.2 LBTH Education Development:**

6.3 The dwelling mix leads to a need for 43 additional primary school places. A contribution is sought (at 100%) for 43 primary school places @ £12,342 = £530,706.

### **6.4 LBTH Highways Development:**

6.5 The provision of 79 car parking spaces is welcomed.

6.6 The high levels of public transport accessibility, proximity to local amenities and the pressures on parking in the area make this essential to sign a car free agreement.

- 6.7 The opening up of Wilson's Place is welcomed and the through route will provide better access to the development for servicing and refuse collection. Wilson's Place will remain as public highway
- 6.8 Cycle parking is insufficient; there should be a minimum of 319 spaces for the residential development and a number of spaces for employees in the commercial properties. Cycle parking should also be designed into the landscaping areas, particularly around the commercial units. It is recommended that the above measures be secured by way of condition and appropriate legal agreement.
- 6.9 Refuse storage for the commercial units needs to be identified and clearly separated from domestic waste. There also needs to be better provision for recyclable refuse storage for residential units. It is recommended that the above measures be secured by way of condition and appropriate legal agreement.
- 6.10 A s278 will have to be entered into for works to Wilson's Place and the junction with Salmon Lane, as well as Lowell Street which is fronted by the development. TfL must be contacted in respect to s278 works on Commercial Road, and a separate agreement drawn up with them.
- 6.11 Providing the upgrade of Wilson's Place can be included in the s278 agreement with Tower Hamlets. There is no need for additional s106 contributions; however TfL may wish to secure contributions to bus measures and signage to Limehouse station.

#### 6.12 **LBTH Environmental Health**

- 6.13 • Environmental Health is satisfied with the methodology and the results of the Air Quality assessment.
- 6.14 • The applicant needs to provide further details on how it is intended to mitigate for dust **and** emissions from the construction site.
- 6.15 • Although mitigation measures are proposed for dust during the construction phase, the following is required:
- 6.16 • 1) A traffic management plan. This should include for e.g. European Emissions Standards for all off and on-road vehicles to be used during the construction phase, a schedule of all plant, equipment and vehicles, etc.
- 6.17 • 2) Details of a contact person on the site to be forwarded to this section in the event that complaints are received from the public.

This will be addressed as part of a condition.

#### 6.18 **External consultees**

#### 6.19 **Greater London Authority (GLA- Strategic Consultee):**

Initially, GLA identified the following in the Stage 1 report:

- (a) inadequate quantum of private external amenity space and non-defined/non designated child play space
- (b) inadequate investigated energy solution for the development

(c) a need to secure legible and safe pedestrian links to nearby public open spaces. A need to secure public transport infrastructure to ensure delivery of a sustainable development.

6.20 The applicant has subsequently taken Greater London Authority (GLA's) comments on board and has amended the scheme accordingly to the satisfaction of the GLA and the Local Planning Authority.

6.21 **Thames Water Authority** - no comments received

6.22 **London City Airport** - no comments received

6.23 **English Heritage (Statutory consultee)**

6.25 *West Pavilion Block:* The scale and form of the proposed development would detrimentally impact on the setting of the listed terrace. Development on the scale of the listed terrace would be more appropriate on this part of the site as this could potentially return into the proposed 'square' forming an L shaped block. The design of the junction between any new development and the listed terrace requires particular careful handling. The large blank area of brick and tall vertical roof top feature lack elegance

6.26 *East Pavilion Block:* The height of the East Pavilion block adjoining the Seaman's Mission should be reduced in order to preserve the dominance of that important building. The façade to Commercial Road should rise no higher than the main part of the cornice of the Seaman's Mission building. This would allow the small eastern turret of the Seaman's Mission to retain some prominence in the streetscene. The junction between any new development and the Seaman's Mission should be treated sensitively

(Officers comment: Refer to main body of the report)

6.27 **Transport for London (Statutory consultee)**

6.28 The development will have low car parking provision and therefore it would not result in a significant overall increase in daily traffic to the site nor result in any unacceptable impact to the TLRN or SRN.

6.29 The transport assessment also provides insufficient information about the pedestrian environment surrounding the site. Given the proximity to public transport and the low levels of car parking proposed the development is likely to be reliant on links to public transport routes so TfL would expect greater detail about the condition of footways, position of crossings, lighting and ease of use of routes

6.30 Appropriate cycle spaces should be provided in line with TfL's Cycle Parking Standards as referred to in the London Plan (Officer's comments: The figures were based on the original scheme which comprised of 338 residential units. The scheme was subsequently amended and now comprises 319 residential units. (Officers comment: The applicant will be required to provide 319 cycle spaces for the residential element of the site. This will be addressed as part of a condition).

6.31 The Travel Plan should be submitted, detailing how sustainable travel to and from the proposed development will be promoted among residents and staff working on site. This should be secured, monitored and reviewed as part of the Section 106 agreement. (Officers comment: A Travel Plan will need to be submitted and approved to the satisfaction of the Council prior to occupation)

6.32 The height of the proposed development may reduce the strength of DLR radio signals from trains operating in the area. The developer should conduct a radio signal survey and if the development will have an adverse impact on radio signals, a financial contribution of £20,000 will be required for signal boosters (This is included in the Section 106 Agreement).

**GLASS:**

6.33 Although the site lies just outside an archaeological priority area as defined in the Borough UDP, the scale of the redevelopment proposals would present a significant impact if archaeological remains were to be present. The redevelopment of this site may therefore affect remains of archaeological importance.

6.34 GLASS welcomes the inclusion of Cultural Heritage and Archaeology in the draft Environmental Impact Assessment Scoping Opinion. Assessment should include examination of known archaeological data for the area as well as documentary, cartographic and geotechnical sources in order to identify areas where development proposals have the potential to impact on archaeological remains and built heritage.

6.35 A condition will be addressed to the application which will require the applicant to undertake further archaeological work or historic building assessment to establish the actual impact of development so an appropriate mitigation strategy can be implemented.

**7.0 LOCAL REPRESENTATION**

7.1 A total of 177 neighbouring properties within the area shown on the map appended to this report were notified of the application and invited to comment. The application has also been publicised in East End Life and on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

Consultation

No. of individual responses	5	Objecting: 5	Supporting: 0
No. of petitions received	0	0	0

**7.2 The following local groups/societies made representations:**

- Stephen Job associates on behalf of Salmon Lane Mission Trustees
- Salmon Lane Mission Trustees Limited
- 3 Local residents

The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

- a) Loss of views from Mission Building Flats
- b) Loss of light to Mission Building Flats (negative from block C)
- c) The proposed development plans does not respect the local context of sufficient space between developments.

This site is an ideal location for a supermarket. Instead of the four smaller units, the upper ground floor of the development should be used for a single, larger, supermarket.

- d) The development will have a negative impact on the members of the Salmon Lane church and residents due to the loss of natural light and privacy. The loss of sun light will

have a negative impact upon the temperature of the Church raising the cost of our utilities.

e) The increased traffic will have a negative impact on the over burdened and congested Salmon Lane.

f) Increase in noise generated by the additional traffic.

g) Appears the proposed plans call for taking a small section of the Church property at the front corner next to Wilson's Place.

h) The development would adversely affect the character and appearance of St. Anne's Church Conservation Area and the Lowell Street Conservation Area. It would also adversely affect the setting of nearby listed buildings

## 8.0 MATERIAL PLANNING CONSIDERATIONS

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

1. Land Use
2. Density
3. Design and layout and the suitability of a tall building at this location
4. Accessibility and inclusive design
5. Associated amenity impacts to surrounding properties
6. Affordable housing, dwelling mix and housing standards
7. Transport and Parking
8. Open space/amenity space
9. Sustainability

### Land Use

8.2 The subject site is not designated as an employment area although it is located within very close proximity to the Industrial Employment and Office Employment area in the UDP. The surrounding area is also nominated as an employment area in the UDP proposals map (1998). Land use within the area is presently evolving and the site and surrounds has been designated in the Local Development Framework Core Strategy and Development Control Submission Document as a suitable location for mixed use development. In essence, the proposed development comprising both residential and B1 use is policy compliant with the adopted UDP (1998) and consistent with the emerging LDF, thereby reflecting the evolution of the area.

8.3 The commercial element of the scheme will be B1 (Office) floorspace. The previous Council depot contained 1096 sq.m of office floorspace and 356 sq.m of warehouse floorspace. The proposed office space on site is 675 sqm. The site is currently vacant. Although the proposal would technically result in the loss of employment floorspace on site, the site has been identified for residential development in the emerging Local Development Framework. The regeneration benefits including the provision of family and affordable housing attributed to the scheme on balance out weighs the loss of the vacant employment floorspace currently on site. Although there is a net loss of employment floorspace on site, the proposal will result in a higher density and better quality floorspace. The applicant has demonstrated that this improvement in quality employment floor space will result in an increase in the number of people employed on site.

### Density

8.4 UDP policy HSG9 which refers to a density of 247 (hrh) habitable rooms per hectare has largely been superseded by the density policies of the London Plan 2004 and Policies of the Local Development Framework – Core Strategy and Development Control Submission Document. Core policy CP20 of the Local Development Framework states that Council will seek to maximise residential densities, taking into account the individual relative merits of

sites and their purposes. The London Plan and LDF policy HSG1 include the implementation of a density, location and parking matrix, which links density to public transport availability as defined by PTAL (Public Transport Accessibility Level) scores which are measured on a scale of 1 (low) – 6 (high).

8.5 The site has a public transport accessibility level (PTAL) of 6a. For urban sites with a PTAL range of 6 the appropriate density of 450-700 hrh. The proposed density of 1218 hrh (Net site area) exceeds the greater level of the density range. However, the scheme is acceptable based on the following grounds:

- The development of the site for mixed use development is consistent with emerging policy and will assist in the regeneration of this area and promote investment in infrastructure and services in the long term which will benefit both existing and future residents.
- A number of contributions towards health, education and public infrastructure have been agreed to mitigate any potential impacts on local services and infrastructure.
- The development is located within an area with good access to public transport services, open space and other local facilities.
- The proposal does not result in any of the common symptoms of overdevelopment, i.e., inappropriate height, bulk and massing, excessive site coverage, undersized flats and open space, or significant amenity impacts to surrounding properties, etc.
- The proposal is of a high quality and complies with the Council's objectives for new development as outlined in the UDP and the Local Development Framework– Core Strategy and Development Control Submission Document.

### **Design & Layout and Suitability of a Tall Building at this Location**

8.6 Design and layout

8.7 Policy 4B.2 of the London Plan states that the Mayor seeks to promote world class design. Development proposals should show that developers have sought to provide buildings and spaces that are designed to be beautiful and enjoyable to visit, as well as being functional, safe, accessible, sustainable and accessible for all. Policy 4C.20 seeks a high quality of design for all waterside development. All development, including intensive or tall buildings, should reflect local character, meet general principles of good design and improve the character of the built environment.

8.8 Policy DEV1 of the LBTH UDP sets out the general principles that the Council will promote, stating that all development proposals should:

- Take into account and be sensitive to the character of the surrounding area in terms of design, bulk, scale and the use of materials;
- Be sensitive to the development capabilities of the site, not result in over development or poor space standards; be visually appropriate to the site and its setting; and take full account of planning standard No.1: Plot Ratio;
- Normally maintain the continuity of street frontages, and take account of existing building lines, roof lines and street patterns;

- Provide adequate access for disabled people in respect of the layout of sites and the provision of access to public buildings;
  - Be designed to maximise the feeling of safety and security for those who will use the development; and
  - Include proposals for the design of external treatments and landscaping.
- 8.9
- Policy CP4 of the draft Core Strategy states that LBTH will ensure development creates buildings and spaces of high quality design and construction that are sustainable, accessible, attractive, safe and well integrated with their surroundings. Policy DEV2 reiterates this and DEV1 of the UDP and states that developments are required to be of the highest quality design, incorporating the principles of good design including.

### Tall Buildings

- 8.10 The London Plan encourages the development of tall buildings in appropriate locations. Policy 4B.8 states that tall buildings will be particularly appropriate where they create attractive landmarks enhancing London's character, help to provide a coherent location for economic clusters of related activity or act as a catalyst for regeneration and where they are also acceptable in terms of design and impact on their surroundings. Policy 4B.9 of the London Plan requires all large-scale buildings, including tall buildings, to be of the highest quality of design.
- 8.11 Policy DEV5 of the LBTH UDP states that tall buildings may be acceptable within the Zones subject to policies DEV1 and DEV2. The development will also:
- not adverse impact on the micro climate, wind turbulence, overshadowing and telecommunication interference,
  - have access to appropriate transport and infrastructure,
  - not adversely harm the essential character of the area or important views; and identify and emphasise a point of civic and visual significance.
- 8.12 Policy CP48 of the emerging LDF recognises that tall buildings can contribute positively to an area where they are designed to high quality standards.
- 8.13 Policy DEV27 of the emerging LDF Core Strategy provides criteria that applications for tall buildings must satisfy. The proposal satisfies the relevant criteria of Policy DEV27 as follows:
- 8.14
- The design is sensitive to the context of the site.
- 8.15
- The architectural quality of the building is considered to be of a high design quality, demonstrated in its scale, form, massing, footprint, materials, relationship to other buildings and open space provision.
- 8.16
- Block A (Tower- tallest block) rises from 6 to 12 to 14 storeys. The scale and massing of the 14 storey building is considered acceptable. The applicant has provided computer generated images to demonstrate this. A number of tall buildings have appeared in the area, namely Tequila Wharf and Norway Wharf and 17 storey Anchor House to the North of Lowell Street. As such, a precedent for tall buildings

within the area has already been established.

- 8.17
- The proposed development does not fall within the strategic views designated in Regional Planning Guidance 3A (Strategic Guidance for London Planning Authorities, 1991) or the Mayor's draft London View Management Framework SPG (2005). However, the scheme has demonstrated consideration of the appearance of the building as viewed from all angles and is considered to provide a positive contribution to the skyline.
- 8.18
- The proposal visually integrates into the streetscape and the surrounding area.
- 8.19
- The proposal presents a human scaled development at the street level.
- 8.20
- The proposal will not be detrimental to the setting of the listed terrace.
- 8.21
- There will be no adverse impact on the privacy, amenity and access to sunlight and daylight for surrounding residents.
- 8.22
- The proposal improves permeability with the surrounding street network.
- 8.23 Initially, Conservation and Design were concerned with the following:
- The scale, bulk and siting of Block A - 14 storey was inconsistent with on site.
  - Block G is excessive in its footprint.
  - Articulation of West Pavilion building E is unsympathetic to the adjoining Listed terrace.
  - Bulk of the western edge needs to be reduced as well as bulk at Fourth-Fifth- Sixth floors to be further set-backed away from the listed building. This needs to be justified by preparing 3D views or block model as appropriate.
  - The junction between the listed terrace and west pavilion block needs resolution.
- 8.24 In respect of the above comments, the applicant has included the following amendments to the scheme:
- The top floor of the West Pavilion (Block E) block was removed from the main section of the building.
- 8.25 The smaller section of the building between the main block and the listed terrace was revised in response to LBTH/EH comments, namely:
- balcony rail to front elevation was set back beyond parapet to ensure that the top of the brickwork aligned with the top cornice of the listed building elevation.
  - apartment on third floor was set back from the front and western boundary to minimise impact on listed terrace.
  - at ground floor level the brick pier nearest to the listed terrace was reduced in width to reflect the proportion of the adjacent terrace
  - fenestration to the first and second floor was revised and responds to the proportion of the listed terrace as shown on the drawing, whilst still relating to the new elevation.
  - recessed 'shadow gap' between existing terrace and new elevation clarified on drawing.



- 8.26 English Heritage considered that the height of the East Pavilion should be reduced in order to preserve the dominance of the Mission building. Whilst the Mission Buildings is of architectural merit, it is not listed or located within a Conservation Area. The Council does not consider the height of block C to be detrimental to the setting of the Seaman's Mission Buildings.
- 8.27 The footprint of Block G has been reduced and amendments have been made to demonstrate a greater degree of sensitivity to its context and sympathetic to the setting of the listed building. The junction between the listed terrace and the west pavilion has also been resolved to the satisfaction of the Council. The height of Block E (West Pavilion) was reduced from 7 storeys to six storeys. The plan of Block E West Pavilion was revised at the south end of the building to minimise impact on neighbouring terrace.
- 8.28 With reference to Block A (Tower), there was concern regarding the strict façade grid which made the building appear somewhat corporate and faceless. The amended plans include balconies on the eastern side of the Tower. The elevational treatment has also been amended. The north eastern elevation drawing PL227 shows the balconies on this elevation from 1<sup>st</sup> to 5<sup>th</sup> floor. The layout plans PL103b and 116B shows that the majority of the flats within the tower have private balconies on the north west and south west elevations. The tower now appears to be more sympathetic to its surroundings and as such will not be detrimental to the character and appearance of the surrounding area).
- 8.29 The GLA has noted that the adjacent site of the former ENO warehouse on Dalgleish Street is due to come forward for development in the near future and the GLA will be negotiating inclusion of communal amenity space to the South West corner of the site to allow through route to Dalgleish Street and the school beyond and this will also increase amenity space locally. The GLA requests that an access is added from the Commercial Road scheme through to Dalgleish Street site and this is conditioned. This will also improve access to other local open spaces without the need to walk along the Commercial Road frontage. The proposed 'Tower' should not prejudice the development rights of the Dalgleish Street site. The positioning of the balconies in block A has responded to the initial concerns that the layout of Block G could have on the nearby site. The applicant has amended Block G to respond to proposals for the neighbouring site.
- 8.30 The overall layout, design, height, massing and footprints of the development demonstrates sensitivity to its context. The proposal complies with national and local design policies.

### **Accessibility & Inclusive Design – Safety & Security**

- 8.31 The Major requires a commitment to delivering an inclusive environment in accordance with Policy 4B.5 of the London Plan. Policy 3A.4 of the London Plan requires all new housing to be built to Lifetime Home Standards and 10% of all new housing to be designed to be wheelchair accessible to meet the full range of housing needs.
- 8.32. UDP policies DEV1 and 2 and policy DEV 3 of the Local Development Framework – Core Strategy and Development Control Submission Document seeks to ensure that development incorporates inclusive design principles and can be safely, comfortably and easily accessed and used by as many people as possible. It is considered that the design and layout of public and private spaces within the development are inclusively designed resulting in improved permeability and connectivity and a high standard of amenity for future occupants.
- 8.33 Further UDP Policies DEV1 and 2 and Policy DEV 4 of the Local Development Framework – Core Strategy and Development Control Submission Document seek to ensure that safety

and security within development and the surrounding public realm are optimised through good design and the promotion of inclusive environments.

- 8.34 The access road is designed for use by service vehicles only. Service vehicles will be able to enter and leave the site in forward gear. The proposed access road is one way- entering from Salmon Lane and leaving by Lowell Street. Access to the site for pedestrians and cyclists is permeable from all sides. Footways of varying widths up to 5.0m are provided alongside all side roads with the exception of the west end to cross site route which is designated mews style layout with a shared surface. The link road improves the permeability of the site. The link route is the only way emergency vehicles could reach areas of the site.
- 8.35 The commercial component of the development is located on Commercial Road providing frontage. The entries to the residential component of the development and individual units are provided off Lowell Street, Commercial Road and Salmon Street. Three entrances provide good natural surveillance for the site.
- 8.36 The layout of the site and the through linkages proposed results in good accessibility and inclusive design which would lead to a high quality environment for future occupants.
- 8.37 Overall it is considered that the proposal represents a design, massing and scale which achieve a positive response appropriately to the broader context of the site. Whilst much of the development around the site is medium rise, a number of tall buildings have appeared in the area, namely Tequila Wharf and Norway Wharf.

#### **Daylight/Sunlight assessment**

- 8.38 Policy 4B.9 of the London Plan refers to the design and impact of large scale buildings and includes the requirement that in residential environments particular attention should be paid to privacy, amenity and overshadowing.
- 8.39 DEV 2 of the UDP seeks to ensure that the adjoining buildings are not adversely affected by a material deterioration of their daylighting and sunlighting conditions. Supporting paragraph 4.8 states that DEV2 is concerned with the impact of development on the amenity of residents and the environment.
- 8.40 Policy DEV1 of the draft Core Strategy states that development is required to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm. The policy includes the requirement that development should not result in a material deterioration of the sunlighting and daylighting conditions of surrounding habitable rooms.
- 8.41 A Daylight/Sunlight analysis prepared by Drivers Jonas considered the sunlight, daylight and shading effects from the proposed development. The assessment considers the potential impact on existing neighbouring dwellings and open spaces surrounding the site and compares the results against the current Building Research Establishment (BRE) discretionary guidance.
- 8.42 To calculate the impact the proposal will have on the daylight levels for the future residents of the development. The BRE guidelines have two methods of assessing daylight levels. The first method is usually used for assessing daylighting levels to neighbouring properties where the internal arrangements are not known.
- 8.43 The residents in flat 104 and 204 of the Mission premises, located on the corner of Salmon Lane and Wilson's Place have objected to the treatment of proposed block C and its

potential impact on the current daylight/sunlight levels.

- 8.44 The submitted BRE Daylighting/ Sunlighting report assesses the impact the proposal has on flat 204 of the Mission buildings. The results demonstrated that the flank window to flat 204 suggests the two windows. Whilst there is a reduction in daylight when comparing the existing and proposed situations, the internal daylight analysis demonstrates that there will be a satisfactory level of daylight to the flank window.
- 8.45 Whilst there is a reduction in daylight (flat 108 and flat 204) when comparing the existing and proposed situations, the internal daylight analysis demonstrates that there will be a satisfactory level of daylight retained in the proposed situation. With reference to flat 204, the sunlight levels to the flank windows exceed the BRE guidelines.
- 8.46 This proposal is a high density inner city development and this is reflected on the number of habitable rooms being created by the proposed development. The Salmon Lane Evangelical Church did not require a daylight/sunlight assessment primarily because it is not in residential usage. The church has a number of windows facing the development site but the daylight consultants have not identified the residential usage.
- 8.47 An internal daylight report has been undertaken to assess the impact the proposal will have for future residents on site. The report identifies the key areas around the proposed site where it is considered the lowest daylight levels will be achieved in the proposed development. A small proportion of rooms will fall below the suggested BRE guidelines. However, on balance the scheme meets the BRE guidelines and a good level of daylight/sunlight will be achieved.
- 8.48 Whilst it is acknowledged there will be a loss of daylight/sunlight, the proposed residential units will receive sufficient daylight/sunlight levels and will not undermine the residential amenity of future occupiers and not warrant refusal.

### **Affordable housing, dwelling mix and housing standards**

#### **8.49 Affordable Housing**

- 8.50 Adopted UDP Policy HSG3 seeks an affordable housing provision on sites capable of providing 15 or more units in accordance with the Plan's strategic target of 25%. Policy 3A.8 of the London Plan states that boroughs should seek the maximum reasonable amount of affordable housing taking into account the Mayor's strategic target that 50% of all new housing in London should be affordable and in line with the Borough's own affordable housing targets.
- 8.51 The Local Development Framework – Core Strategy and Development Control Submission Document Policy CP22 seeks 50% affordable housing provision from all sources across the Borough with a minimum of 35% affordable housing provision on site's capable of providing 10 or more dwellings. Policy HSG10 confirms that affordable housing will be calculated in terms of habitable rooms with the exception of where this yields a disparity of 5% or more compared to calculation in terms of gross floor space.
- 8.52 Policy CP22 of the emerging LDF governs the amount of affordable housing expected. For schemes providing more than 10 units there is a target of 50% with a minimum requirement of 35% affordable housing.
- 8.53 Policy CP22 of the emerging LDF governs the amount of affordable housing expected. For schemes providing more than 10 units there is a target of 50% with a minimum requirement of 35% affordable housing.

- 8.54 Policy HSG10 of the emerging LDF specifies that the affordable housing should be calculated by using habitable rooms as a primary measure unless there is greater than 5% disparity between the provision calculated by habitable rooms and by floorspace, when the measure providing the most affordable housing should be used.
- 8.55 Policy CP21 'Dwelling Mix and Type' of the emerging LDF governs the ratio of social rented units to those of intermediate tenures. The expectation is that the ratio will be 80% / 20%
- 8.56 Policy HSG2 'Housing Mix' of the emerging LDF specifies an expected unit mix. The scheme unit mix is analyzed on table 3 of the attached sheet;  
 Para 5.14 states that a range of dwellings with differing layouts should be provided to widen housing choice. Sites with a larger site area have a greater opportunity to provide a mix of housing types including flatted and terraced style homes.  
 Para 12.12 reinforces the expectation that both terrace style and flatted units will be provided in suitable locations

Provision of affordable housing

- 8.57 This provision meets the policy requirement for 35% minimum affordable housing. The planning applicant has indicated this will be provided without recourse to grant funding.

**Table 2: Tenure breakdown**

	Number of units	Habitable rooms
Affordable rent total	72	232
Shared ownership	32	93
Market total	215	601
<i>Total</i>	<i>319</i>	<i>926</i>

- 8.58 The proposal provides 25% of family units within the intermediate level and 22.7% of family units within the market component of the scheme. This exceeds the policy requirement of 25% for market and intermediate housing

Overall Dwelling Mix

- 8.59 On appropriate sites, UDP Policy HSG7 requires new housing schemes to provide a mix of unit sizes including a "substantial proportion" of family dwellings of between 3 and 6 bedrooms.
- 8.60 Local Development Framework – Core Strategy and Development Control Submission Document HSG2 specifies the appropriate mix of units to reflect local need and provide balanced and sustainable communities. In terms of family accommodation, the Policy requires that 25% of intermediate and market housing to comprise units with 3 or more bedrooms respectively.
- 8.61 It is considered that on balance the scheme provides a reasonable match with the Council's preferred unit mix specified in the Local Development Framework – Core Strategy and Development Control Submission Document. Within the intermediate and market housing, the scheme provides a total of 21% family housing against a target of 25%. On balance this is acceptable, taking into account the higher amount of affordable housing proposed.
- 8.62 The proposed tenure split within the affordable is 69% social rented and 31% shared ownership. Whilst this falls within the London Plan's overall target for London, it does not meet Tower Hamlets' own local requirement within the LDF policies of 80% / 20%.

Analysis of unit mix

8.63 From the analysis it can be seen that the proposals provide 5 five bedroom houses within the affordable rented homes which are welcomed, and a reasonable unit mix for the affordable rented homes. However overall the scheme displays a unit mix providing 26.3% (84/319) family accommodation ( 3 bed and larger) against an average target of 30% taking into account the Council’s weighted targets for affordable rented (45%), intermediate (25%) and private (25%)

8.64 Policy HSG2 ‘Housing Mix’ of the emerging LDF requires that both the intermediate housing and market housing components of housing provision contain an even dwelling mix of dwelling sizes, including a minimum provision of 25% family housing, comprising 4 and 5 plus bedrooms.

**Table 3: Proposed housing mix against HSG2 of the emerging LDF**

8.65

		affordable housing						market housing		
		social rented			intermediate			private sale		
Unit	Total Units in scheme	units	%	target	unit	%	target	units	%	target
Studio	9	0	0	0	0	0	25	9	4.1	25
1 bed	107	21	29	20	11	34.3	25	75		25
2 bed	119	24	33.5	35	13		25	82	38.1	25
3 bed	79	22		30	8	25	25	49		25
4 bed	0	0	0	10	0			0		
5 Bed	5	5	7	5	0			0		
<b>TOTAL</b>	<b>119</b>	<b>72</b>	<b>100</b>	<b>100</b>	<b>32</b>	<b>100</b>	<b>100</b>	<b>215</b>	<b>100</b>	<b>100</b>

8.66 Although the percentage of family units within the Social rented component of the scheme falls short of the policy requirement of HSG 2 the Council is, on balance, satisfied with the proposed family dwelling mix. The scheme provides 37.5% family housing (including 4 and 5 bedroom units) in the social rent affordable housing component. Policy in the emerging LDF requires 45% of social rented units to be suitable for family occupation (3 bed or more). Although the proposal falls short of this requirement, the Council is broadly satisfied with the overall level of family units on site. The toolkit which was submitted as part of the viability study demonstrates that it is not viable to provide 45% family units within the affordable rented component of the scheme. The Greater London Authority agrees with the assumptions made in the toolkit and does not object to the level of family accommodation within the development.

8.67 The total contribution sought from PCT is £1,529,483. (both capital and revenue contribution)

8.68 Due to viability restrictions on the scheme, the capital contribution has only been sought for health (266,100). This was agreed to by Planning Committee Obligations Panel-

PCOP).The proposal would generate a capital contribution requirement of £177,000 (Market) and £88,000 (affordable) = £266,100

## Transport & Parking

### Current Parking Standards

- 8.69 For development control purposes, parking standards set out in the UDP have now been superseded by those set out in Planning Standard 3: Parking of the Core Strategy and Development Control (November 2006 Submission Document). The development proposes residential and commercial development and the table below set out the acceptable range of maximum car parking and minimum car parking provision.

**Table 4: Tower Hamlets Borough Parking Standards**

Lane Use	Maximum car/motorcycle	Minimum cycle parking
C3 Dwelling Houses	Car free housing up to 0.5 dwelling	1 space per unit + 1 space for visitors.
B1 Offices and Light	No parking	1 spaces per 250m2 or a 2 spaces

- 8.70
- 8.71 In terms of accessible parking for people with disabilities, Planning Standard 6 sets out a minimum requirement of 1 space to be provided on site for a car free development.
- 8.72 Public Transport Accessibility (PTALs) have been adopted in London to produce a consistent public transport access mapping facility to assist boroughs with locational planning and assessment of appropriate parking provision by measuring broad public transport accessibility levels.
- 8.73 A total of 79 car parking spaces are provided within the proposed development, including three disabled spaces. The proposal therefore complies with car parking standards as set out in the emerging.
- 8.74 Parking will be provided for residents in three areas:
- At upper ground floor level 31 parking spaces will be provided in the undercroft parking area to the north of the route.
  - At lower ground floor level 41 parking spaces will be provided to the south of the cross site route.
  - 10 motorcycle spaces on the upper ground floor and 13 motorcycle spaces on the upper floors.
- 8.75 Tower Hamlets' residential parking standards are contained in the Authority's Unitary Development Plan (UDP) which states that the maximum permitted level of off street parking provision is set at 50% for all residential units.
- 8.76 The proposed development adequately is therefore consistent with PPG3 guidance, London Plan Policy 3C.1 and 3C.22 UDP Policy T15 and T16 and the emerging DPD Policies TR1, TR2, TR3 and TR7.

### Open space/ amenity space

- 8.77 Policy HSG7 of the emerging LDF stipulates that developments should make appropriate public and private amenity space.

**Table 5: Residential amenity space**

Residential Unit Type	Minimum size of amenity space
All dwelling housings; or terrace/ground floor units comprising 3 bedrooms or greater	50m <sup>2</sup>
Terrace/ground floor units comprising less than 3 bedrooms	25m <sup>2</sup>
Dwellings comprising 1 bedroom or studios	6m <sup>2</sup>
Dwelling comprising 2 bedroom or more	10m <sup>2</sup>

8.79 The GLA stage 1 report noted that there is an inadequate quantum of private external amenity space. The applicant has provided an amenity audit which shows the breakdown of public amenity space (ground floor area), communal amenity areas and private amenity space. In summary the public square is 768 sq.m, communal space is 1601 sq.m and the total private space is 2149.8 sq.m. Total amenity space within the site is therefore 4518.8 sq.m. The proposal broadly meets the Council's policy. The Greater London Authority and the London Borough of Tower Hamlets consider the provision of private, communal and child space to be acceptable.

### **Sustainability/Energy**

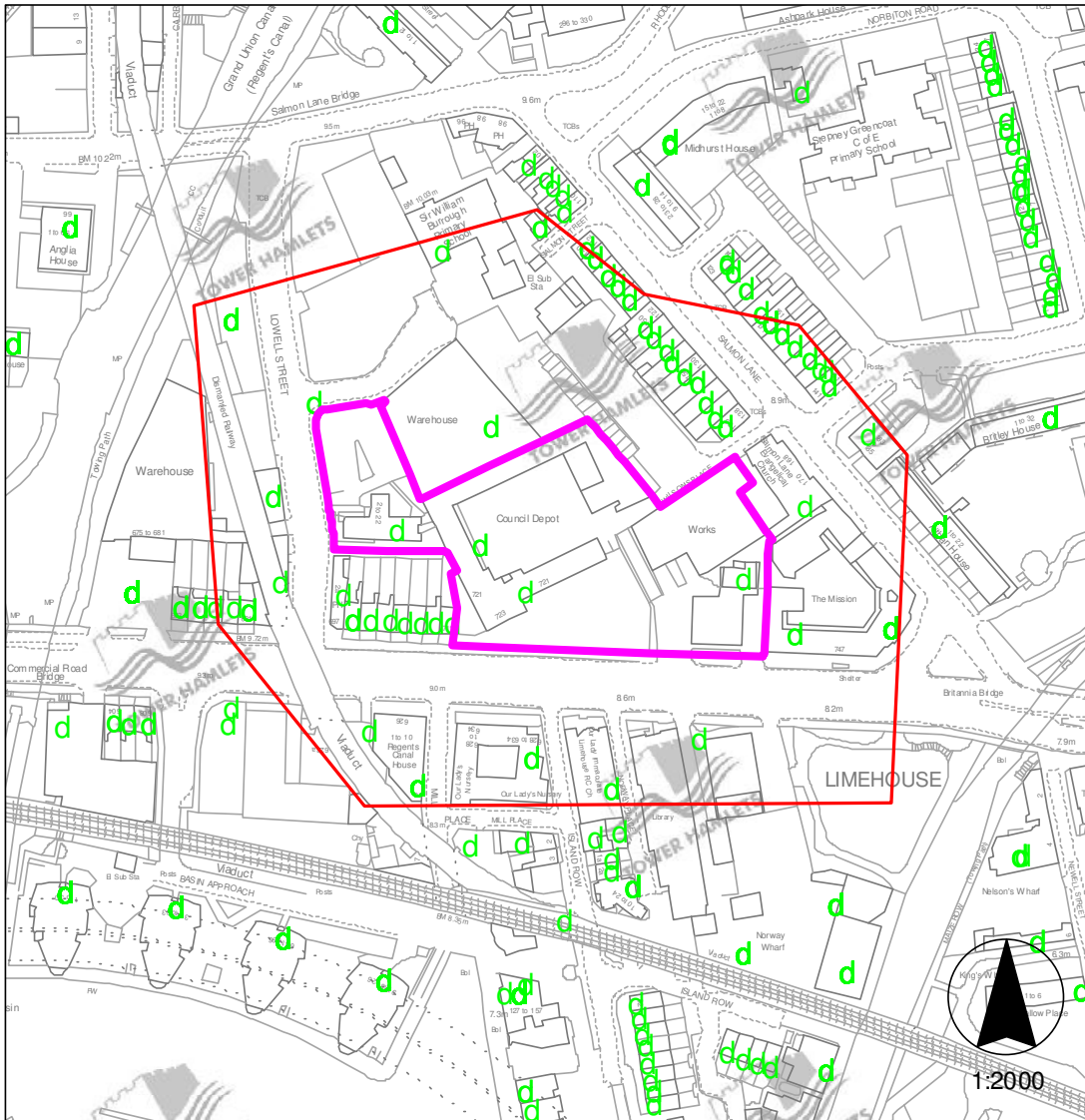
8.80 Policy 4B.6 Sustainable design and construction of the London Plan states that new developments should meet the highest standards of sustainable design and construction. Policy 4A.8 *Energy assessment* states that the Major will require an assessment of energy demand of proposed major developments. This should demonstrate the steps taken to apply the Major's energy hierarchy. Renewable energy should be considered first (preferably to fuel combined heat and power and community heating), then secondly, community heating with combined heat and power, and thirdly, gas condensing boilers and gas central heating. At least 10% of the site's energy needs should come from renewable energy and design should incorporate passive solar design, natural ventilation, borehole cooling and vegetation on and adjacent to buildings where technically feasible. It is recommended that the above measures be secured by way of condition and appropriate legal agreement.

8.81 The GLA requested that the applicant carry out a robust investigation on the use of a combined heat and power system plus complimentary renewable, rather than the currently proposed biomass boilers. The applicant was required to undertake a combined heat and power study. GLA and the applicant have both agreed that the applicant uses a 35 kilo Watt electrical combined heat and power plant which will result in a 20% reduction of carbon emissions and 25% reduction of on site energy from renewable sources. It is recommended that the above measures be secured by way of condition.

## **9 CONCLUSIONS**

All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

# Site Map



**Legend**

- Planning Application Site Boundary
- Consultation Area
- d Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationary Office © Crown Copyright. London Borough of Tower Hamlets LA086568



Legend	
[Light Blue Box]	Studio Flat
[Light Green Box]	1B7P Flat
[Light Yellow Box]	2B7P Flat
[Light Purple Box]	3B7P Flat
[Light Orange Box]	4B7P Flat / mezzanine
[Light Pink Box]	B77P House



no.	date	description



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ARCHITECTURE  
URBAN PLANNING

client  
**Sure Estates Ltd**

project  
**728-737  
Commercial Road**

drawing  
**Upper Ground Floor Plan**

scale: 1:250 @ A1, 1:500 @ A3  
date file: 2025\_09/01/19  
drawing: RS  
checked: RS

project no: 2851  
drawing no: 14/200  
revision

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Legend	
[Light Blue Box]	Studio Flat
[Light Green Box]	1 BR/1P Flat
[Light Yellow Box]	2 BR/2P Flat
[Light Purple Box]	3 BR/3P Flat
[Light Pink Box]	4 BR/4P Flat
[Light Cyan Box]	5 BR/5P Flat / maisonettes
[Light Grey Box]	2 BR/2P House

rev. date description



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URBAN PLANNING

client  
Sure Estates Ltd

project  
728-787

Commercial Road

drawing  
First Floor Plan

revision

scale: 1:250 @ A1, 1:500 @ A3  
date: 2023  
drawing: RS  
checked: RS

project no: 2081  
drawing no: P1/201  
revision



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Legend	
[Light Blue Box]	Studio Flat
[Light Green Box]	1BPP Flat
[Light Yellow Box]	2BPP Flat
[Light Purple Box]	3BPP Flat
[Light Pink Box]	4BPP Flat
[Light Cyan Box]	5BPP Flat / mezzanine
[Light Grey Box]	2BPP House

rev. date description



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client  
Sure Estates Ltd

project

728-787  
Commercial Road

drawn

Second Floor Plan

scale: 1:250 B.A1, 1:500 B.A3  
date file: 2021\_09/01/19  
drawing: 02/21  
checked: RS

project no: 2081 drawing no: 19/201 revision: 1

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Legend	
[Light Blue Box]	Studio Flat
[Light Green Box]	1BPP Flat
[Light Yellow Box]	2BPP Flat
[Light Purple Box]	3BPP Flat
[Light Pink Box]	3BPP Flat / mezzanine
[Light Grey Box]	2BPP House

rev. date description



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client  
**Sure Estates Ltd**

project  
**728-787**

Commercial Road

drawn by  
**Third Floor Plan**

scale  
 1:250 @ A1, 1:500 @ A3

date file  
 2025\_07/01/24

drawn by  
 RS

checked by  
 RS

project no  
**2081**

drawing no  
**PL/203**

revision



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Legend	
[Light Blue Box]	Studio Flat
[Light Green Box]	1 BR/FP Flat
[Light Yellow Box]	2 BR/FP Flat
[Light Purple Box]	3 BR/FP Flat
[Light Cyan Box]	3 BR/FP Flat / mezzanine
[Light Orange Box]	2 BR/FP House

rev	date	description



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PROJECT  
**728-787**  
**Commercial Road**

DRAWING  
**Fourth Floor Plan**

SCALE: 1:250 @ A1, 1:500 @ A3  
 DATE: 2023-07-07  
 DRAWN: RS  
 CHECKED: RS

PROJECT NO: 2851  
 DRAWING NO: 14/204  
 REVISION



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Legend	
[Light Blue Box]	Studio Flat
[Light Green Box]	1 BR/FP Flat
[Light Yellow Box]	2 BR/FP Flat
[Light Purple Box]	3 BR/FP Flat
[Light Cyan Box]	3 BR/FP Flat / mezzanine
[Light Orange Box]	2 BR/FP House

rev. date description



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project  
**728-787  
 Commercial Road**

drawn  
**Flint Floor Plan**

scale: 1:250 @ A1, 1:500 @ A3  
 cut file: 2023\_07101011.dwg  
 drawing: RS  
 checked: RS

project no: 2081  
 drawing no: 14/205  
 revision



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# Agenda Item 7

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 7
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Applications for Decision	
<b>Originating Officer:</b> Michael Kiely		<b>Ref No:</b> See reports attached for each item	
		<b>Ward(s):</b> See reports attached for each item	

## 1. INTRODUCTION

- 1.1 In this part of the agenda are reports on planning applications for determination by the committee. 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 are 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.

## 3. ADVICE OF ASSISTANT CHIEF EXECUTIVE (LEGAL SERVICES)

- 3.1 The relevant policy framework against which the Committee is required to consider planning applications comprises the development plan and other material policy documents. The development plan is:
- the adopted Tower Hamlets Unitary Development Plan (UDP) 1998 as saved September 2007
  - the adopted London Plan 2004 (as amended by Early Alterations December 2006)
- 3.2 Other material policy documents include the Council's Community Plan, Interim Planning Guidance (adopted by Cabinet in October 2007 for Development Control purposes) Planning Guidance Notes and government planning policy set out in Planning Policy Guidance & Planning Policy Statements.
- 3.3 Decisions must be taken in accordance with section 70(2) of the Town and Country Planning Act 1990 and section 38(6) of the Planning and Compulsory Purchase Act 2004. Section 70(2) of the Town and Country Planning Act 1990 requires the Committee to have regard to the provisions of the Development Plan, so far as material to the application and any other material considerations. Section 38(6) of the Planning and Compulsory Purchase Act 2004 requires the Committee to make its determination in accordance with the Development Plan unless material planning considerations support a different decision being taken.
- 3.4 Under Section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects listed buildings or their settings, the local planning authority must have special regard to the

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**LOCAL GOVERNMENT ACT 2000 (Section 97)**  
**LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 7**

Brief Description of background papers:	Tick if copy supplied for register	Name and telephone no. of holder:
Application, plans, adopted UDP, Interim Planning Guidance and London Plan	✓	Eileen McGrath (020) 7364 5321

desirability of preserving the building or its setting or any features of architectural or historic interest it possesses.

- 3.5 Under Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990, in considering whether to grant planning permission for development which affects 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.
- 3.6 Whilst the adopted UDP 1998 (AS SAVED) is the statutory development plan for the borough (along with the London Plan), it will be replaced by a more up to date set of plan documents which will make up the Local Development Framework. As the replacement plan documents progress towards adoption, they will gain increasing status as a material consideration in the determination of planning applications.
- 3.7 The reports take account not only of the policies in the statutory UDP 1998 but also the emerging plan and its more up-to-date evidence base, which reflect more closely current Council and London-wide policy and guidance.
- 3.8 In accordance with Article 22 of the General Development Procedure Order 1995, Members are invited to agree the recommendations set out in the reports, which have been made on the basis of the analysis of the scheme set out in each report. This analysis has been undertaken on the balance of the policies and any other material considerations set out in the individual reports.

# Agenda Item 7.1

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 7.1
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Tim Porter		<b>Ref No:</b> PA/07/00935	
		<b>Wards:</b> Millwall	

## 1. APPLICATION DETAILS

<b>Location:</b>	Site south of Westferry Circus and west of Westferry Road, London
<b>Existing Use:</b>	Vacant
<b>Proposal:</b>	Erection of Class B1 office buildings (330,963 sq. m) comprising two towers (max 241.1m and 191.34m AOD) with a lower central link building (89.25m AOD) and Class A1, A2, A3, A4 and A5 uses (retail, financial/professional services, restaurant/ café, drinking establishments and hot food takeaway) at promenade level up to a maximum of 2367 sq.m together with ancillary parking and servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art and other ancillary works. (total floor space 333,330 sq.m).
<b>Drawing Nos:</b>	900-50007 (Rev. A), 900-50008 (Rev. B), 900-50009 (Rev. B), 900-50009M (Rev. B), 900-50010 (Rev. A), 900-50011(Rev. A), 900-50012 (Rev. A), 900-50013 (Rev. A), 900-50014 (Rev. A), 900-50015 (Rev. A), 900-50016 (Rev. A), 900-50017 (Rev. A), 900-50018 (Rev. A), 900-50019 (Rev. A), 900-50020 (Rev. A), 900-50021 (Rev. A), 900-50022 (Rev. A), 900-50023 (Rev. A), 900-50024 (Rev. A), 900-50025 (Rev. A), 900-50026 (Rev. A), 900-50027 (Rev. A), 900-50028 (Rev. A), 900-50029 (Rev. A), 900-50030 (Rev. A), 900-50031 (Rev. A), 900-50032 (Rev. A), 900-50033 (Rev. A), 900-50034 (Rev. A), 900-50035 (Rev. A), 900-50036 (Rev. A), 900-50036.1 (Rev. A), 900-50037 (Rev. A), 900-50038 (Rev. A), 900-50039 (Rev. A), 900-50040 (Rev. A), 900-50041 (Rev. A), 900-50042 (Rev. A), 900-50043 (Rev. A), 900-50044 (Rev. A), 900-50045 (Rev. A), 900-50046 (Rev. A), 900-50047 (Rev. A), 900-50048 (Rev. A), 900-50049 (Rev. A), 900-50050 (Rev. A), 900-50051 (Rev. A), 900-50052 (Rev. A), 900-50053 (Rev. A), 900-50054 (Rev. A), 900-50055 (Rev. A), 900-50056 (Rev. A), 900-50201 (Rev. A), 900-50231 (Rev. A), 900-50301 (Rev. A), 900-50302 (Rev. A), 900-50311 (Rev. A), 900-50312 (Rev. A), 900-50321 (Rev. A), 900-50322 (Rev. A) Environmental Statement – RPS – March 2007 Environmental Statement: Addendum – RPS – September 2007 Environmental Statement – Non Technical Summary – RPS - March 2007 Environmental Statement – Volume 6 Supplement – RPS - May 2007 Environmental Statement – Revised Chapter 3 – Regulation 19 for Further Information Sunlight/Daylight Mitigation Design & Access Statement - Rogers Stirk & Partners - March 2007 Planning Statement – March 2007 Consultation Statement

### LOCAL GOVERNMENT ACT 2000 (Section 97) LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT

Brief Description of background papers:	Tick if copy supplied for register	Name and telephone no. of holder:
Application, plans, adopted UDP. draft LDF and London Plan		Eileen McGrath 020 7364 5321

Transport Assessment – Steer Davies Gleave - March 2007  
Schematic Landscape (indicative only – not for approval) – Rogers  
Stirk & Partners - May 2007

**Applicant:** Canary Wharf Ltd C/- DP9  
**Owner:** Canary Wharf Ltd  
**Historic Building:** N/A  
**Conservation Area:** N/A

## 2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The local planning authority has considered the particular circumstance of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan, associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that:

- The proposal is in line with the Mayor's policy which seeks to maximise the development potential of sites. As such, the development complies with policy 4B.3 of the London Plan which seeks to ensure this.
- The commercial uses (Class A1, A2, A3, A4, A5 and B1) are acceptable in principle where they provide a substantial provision of jobs in a suitable location. As such, it is in line with Policies 3B.3 and 3B.4 of the London Plan, policy CAZ1 of the Council's Unitary Development Plan 1998 and policy CP8 of the Council's Interim Planning Guidance (2006), and policy IOD17 (ID38) Council's Interim Planning Guidance Isle of Dogs Area Action Plan (2007) of the which seek to promote the north of the Isle of Dogs as leading global financial and business centres.
- The reduction in the quantum of retail floor space from the previous consent for this site is acceptable where potential noise nuisance to adjacent residential properties will be mitigated. The consolidated location of this retail accommodation is considered to be consistent with existing bars and restaurants around Westferry Circus. As such, the proposal is in line with employment policies DEV2 and EMP2 of the Council's Unitary Development Plan 1998 and policies DEV1 and EE2 of the Council's Interim Planning Guidance Framework (2007), which seeks to promote the location of uses to be compatible with adjoining residential uses and where possible, improve the amenity of surrounding residents.
- The density of the scheme would not result in the overdevelopment of the site and any of the problems typically associate with overdevelopment. As such, the scheme is in line with policies DEV1 and DEV2 of the Council's Unitary Development Plan 1998 and policies DEV1 and DEV2 of the Council's Interim Planning Guidance (2007), which seek to provide an acceptable standard of development.
- The development would enhance the streetscape and public realm through the provision of a public open space area and improved pedestrian linkages through the site and along the River Thames. As such, the amenity space proposed is acceptable and in line with policies 4C.1 and 4C.17 of the London plan, ST37 DEV48 and T18 - T21 of the Council's Unitary Development Plan 1998 and policies CP30, CP36, DEV 3, DEV16 and OSN3 of the Council's Interim Planning Guidance (2006), which seek to improve amenity and liveability for residents. And policy IOD1 of the Council's Interim Planning Guidance Isle of Dogs Area Action Plan (2007)
- The building height, scale and design is acceptable in line with English Heritage and CAFE criteria for tall buildings; policies 4B.1, 4B.8, 4B.9 and 4C.20 of the London Plan, policies DEV1 and DEV2 of the Council's Unitary Development Plan 1998 and policies CP48, DEV1, DEV2 and DEV 27 of the Council's emerging Interim Planning Guidance (2007), which seek to ensure tall buildings are of a high quality design and suitably located.



- Transport matters, including parking, access and servicing is acceptable in line with policies T16 and T17 of the Council's Unitary Development Plan 1998 and policies DEV17, DEV18 and DEV19 of the Council's Interim Planning Guidance (2007), which seek to ensure developments can be supported within the existing transport infrastructure.
- The submitted Environmental Impact Assessment is satisfactory, including the cumulative impact of the development, with mitigation measures to be implemented through conditions and a recommended legal agreement.
- Sustainability and renewable energy matters are considered to be appropriately addressed in line with policies 4A.7 – 4A.9 of the London Plan and DEV5 – 9 and DEV 11 of the Council's Interim Planning Guidance (2007), which seek to ensure developments reduce carbon emissions as well as sustainable developments through design measures, water quality and conservation, sustainable drainage, sustainable construction material, air pollution and air quality.
- The development will not alter or have an adverse effect on the setting of the listed dock wall and will therefore comply with Planning Policy Guidance 15 and policy CON1 of the Council's Interim Planning Guidance (2007).
- Financial contributions have been secured towards the provision of health care facilities, open space, education facilities and pedestrian links in line with Government Circular 05/05, policy DEV4 of the Council's Unitary Development Plan 1998 and policy IMP1 of the Council's Interim Planning Guidance (2007), which seek to secure contributions toward infrastructure and services required to facilitate proposed development.

### 3. RECOMMENDATION

3.1 That the Committee resolve to **GRANT** planning permission subject to:

A. Any direction of the Mayor;

B. The prior completion of a **Legal Agreement** to the satisfaction of the Chief Legal Officer, to secure the following:

1) Public Transport

Contribution towards DLR enhancement works - **£3,000,000**;

Contribution to TfL towards enhancements to the No. 135, 330 and the 330 bus services (**£900,000 – paid in sums of £300,000 per annum**);

2) Public Realm

Provision and maintenance of the new open space at the southern end of the site, the riverside walkway within the site and other areas of public realm within the site - **£5,343,000**;

3) Isle of Dogs Community Foundation

Contributions towards social and community facilities - **£2,500,000**;

4) Highways Works

Provision of toucan crossings south of Heron Quay on Marsh Wall and Westferry Road, pedestrian crossing facility north of Heron Quay across Westferry Road and off-site highway works - **£ 546,000**;

Adoption of Heron Quays Roundabout and adjacent footpaths under Section 38 of the Highways Act 1980, including payment of works necessary to bring the Highway up to adoptable standard

5) Lease of Skills Match / IDEA Store

16 years 6 month lease of the IDEA Store / 10 year lease of the Skills Match Unit at peppercorn rents - **£5,312,000**;

6) Community and Social Infrastructure Provision – projects to be determined through strategy for each area - total of **£4,794,000**

- Employment, Skills and Training
- Sustainable Transport Initiatives
- Public Realm, Design and Open Space Improvements
- Improvements to Sports and Cultural Facilities

7) Preparation of a Travel Plan Framework - to be completed prior to the commencement of the development. The Travel plan will be subject to ongoing monitoring and review

8) Code of Construction Practice

9) TV and Radio Reception

3.2 That the Head of Development Decisions be delegated power to impose conditions and informatives on the planning permission to secure the following:

**Conditions**

1. Time limit;
2. Details of the following are required prior to the commencement of the development:
  - a) Samples of all external building materials including a 'typical cladding detail mock up.'
  - b) Detailed design of all lower floor elevations, including shop fronts;
  - c) Details of hard soft landscaping, including walkways, design and layout of new park, tree planting scheme, street furniture, CCTV and all external lighting;
  - d) Public art;
  - e) Details of all boundary wall treatments including walls, fences, railings and gates;
  - f) Signage details;
3. Submission of details of external ventilation/extract ducts to A3, A4, A5 units;
4. Submission of details of high level/roof top plant and sound attenuation;
5. Submission of details of refuse/recycling proposals, including a waste management strategy;
6. Submission of details of disabled access (also to address the matters raised in councils letter of the 15<sup>th</sup> May 2007 in regards to accessibility);
7. Submission of details of the location of a proposed taxi rank;
8. Submission of details of the location of suitable riparian life saving equipment along the riverside walkway;
9. Submission of details of external lighting to be used during construction and on completion of the development to be considered in consultation with the Port of London Authority;
10. River Barges must be used where feasible for the transport of materials to/from the site in both construction and on completion of the development. A strategy must be submitted detailing the use of barges to be considered in consultation with the Port of London Authority;
11. Submission of a landscape Management Plan;
12. Planting, seeding Turfing;
13. Submission of detailed scheme for the ecological enhancement of the river wall;
14. Submission of a Ecological Management Plan detailing ecological mitigation measures throughout the development;
15. Details of the riverside walkway;
16. Details of the methods of the reconstruction of the riverwall and basement construction, use of barges, storage of materials, etc, to be submitted;
17. Details of brown roofs to be submitted;
18. Details of surface and foul water drainage system required;

19. Details of surface water source control measures;
20. Details of sustainable drainage system;
21. Investigation and remediation measures for land contamination (including water pollution potential);
22. Details of the construction of the site foundations;
23. Details of Water Efficiency measures;
24. Submission of details of the method of construction including details of use location and height of cranes and other structures to be considered in consultation with London City Airport;
25. Buildings must be equipped with aircraft obstacle lighting;
26. Submission of design specifications of acoustic screens for cooling towers/air cooled chillers;
27. Submission of a Construction Environmental Management Plan (EMP) setting out measures to be applied during the construction phase, relating to site planning, construction vehicles, demolition and construction activities on the site;
28. The following parking spaces are to be provided:
  - A maximum of 150 car parking spaces of which 10% must be allocated for disabled users.
  - A minimum of 345 cycle spaces for the office element and a minimum of 8 spaces located at the entrance for the retail element.
  - 132 motorcycle spaces;
29. Emergency Exit Management Plan detailing how the vehicle access ramp from podium level down to Westferry Circus would be used, controlled and monitored;
30. Submission of a detailed plan to ensure that the barrier to the basement access is setback from the highway in order to allow for sufficient space to allow for queuing vehicles;
31. Pedestrian Capacity Study detailing the impacts of the development upon the surrounding area;
32. Submission of a service management plan detailing a servicing scheme for deliveries and servicing throughout the site;
33. Limit hours of construction to between 8.00 Hours to 18.00 Hours, Monday to Friday and 8.00 Hours to 13.00 Hours on Saturdays, and no works on Sundays or Bank Holidays;
34. Limit hours of power/hammer driven piling/breaking out to between 10.00 Hours to 16.00 Hours, Monday to Friday;
35. Air Quality Monitoring;
36. Details of a monitoring and control regime of the Environmental Management Plan;
37. Impact study of water supply infrastructure required;
38. Renewable energy measures to be approved in writing by the Local Planning Authority in consultation with the Greater London Authority and implemented in perpetuity;
39. Level of noise emitted from the site to be restricted;
40. Implementation of a programme of archaeological work in accordance with the written scheme of investigation;
41. Highway works surrounding the site to be submitted to and approved by the Council; and
42. Any other condition(s) considered necessary by the Head of Development Decisions.

**Informatives:**

1. Section 106 agreement required;
2. Permission to be read in conjunction with the associate Listed Building Consent reference PA/07/943;
3. S278 Highways works agreement required;
4. River works licensing (Port of London Authority);
5. Riparian lifesaving equipment provided to the 1991 Hayes Report Standards (Port of London Authority);
6. Site notice specifying the details of the contractor required;
7. All waste shall be stored in a safe and secure manner;
8. Environment Agency advice;
9. Details of the archaeological project design;
10. Details of the renewable energy;
11. All cycle parking is to be provided in accordance with the London Cycle Network Manual;

12. Thames Water advice;
13. Environmental Health Department Advice;
14. Construction Environmental Management Plan Advice;
15. Metropolitan Police advice;
16. London City Airport Advice; and
17. Any other informative(s) considered necessary by the Head of Development Decisions

3.3 That if by the 8<sup>th</sup> February 2008 the legal agreement has not been completed to the satisfaction of the Chief Legal Officer; the Head of Development Decisions be delegated power to refuse planning permission.

#### 4. PROPOSAL AND LOCATION DETAILS

##### Planning History

- 4.1 Planning permission was granted for the redevelopment of the site on the 8<sup>th</sup> June 2005 (ref PA/03/00377). This application proposed the following:
  - 4.2 *“Erection of B1 office buildings (273,171 sq.m) comprising two towers of 43 and 37 storeys (max. 220m and 195m AOD) with a lower central link building (53m AOD) and A1, A2, A3, A4 and A5 uses (A1 retail limited to 2499 sq m, financial/professional services, restaurants/cafes, pubs/bars, and hot food takeaways) at promenade level up to a maximum of 5904 sq m, together with ancillary parking & servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art, and other ancillary works. (Total floor space of 279,075 sq m).”*
  - 4.3 A new scheme was submitted to the Council on the 30<sup>th</sup> March 2007. The scheme was presented to the Strategic Development Committee on the 21<sup>st</sup> June 2007. On a vote of 6 for and 1 abstention, the Committee RESOLVED that planning permission for the erection of Class B1 office buildings (324,888 sq. m) comprising two towers of 45 and 35 storeys (max 241.1m and 191.3m AOD) with a lower central link building (77.450m AOD) and Class A1, A2, A3, A4 and A5 uses (retail, financial/professional services, restaurant/ cafe, drinking establishments and hot food takeaway) at promenade level up to a maximum of 2367 sq.m together with ancillary parking and servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art and other ancillary works (total floor space 327,255 sq.m) at site south of Westferry Circus and west of Westferry Road, London be GRANTED subject to conditions and a s106 agreement.
  - 4.4 The 21<sup>st</sup> June 2007 Strategic Development Committee report, recommending approval of this proposal subject to conditions, is attached as **Appendix 1**. Attached as **Appendix 2** is a copy of the Strategic Development Committee’s Decision.
  - 4.5 Following the Committee decision, the applicant was presented with a number of challenges that needed to be addressed. As such the section 106 agreement and Decision Notice was not finalised. The planning department agreed with the applicant that any proposed changes to the current scheme could be addressed under the scope of this application, subject to the amended scheme being presented before the Strategic Development Committee for their decision.
  - 4.6 The details of the proposed amendments to the scheme are presented below.

##### Proposal

- 4.7 Significant market interest from particular global institutions seeking headquarters accommodation in London has prompted Canary Wharf Ltd to reconsider the floor space provision and floor to ceiling heights.

- 4.8 Specifically, a request from the market for more trading desk positions has resulted in a proposal to increase the number of trading floors from four to six but also to provide flexible floor space that could be either trading space or support office space. It is proposed that this be achieved by the reallocation of office space within the buildings, including the loss of the mezzanine space originally located in the lowest eight floors of building RS1 and the redistribution of plant space. This has resulted in an amended floor stack within building RS3, the lowest of the three buildings that is comprised of five dedicated trading floors, 1 "swing" floor that could operate as either a trading floor or a support office floor and one office support floor. A total of seven floor levels above ground as opposed to four large floor levels interspaced by four mezzanine levels (in effect, eight floor levels in the March 2007 application).
- 4.9 This results in an increase in the height of RS3 but does not increase the height of either of the other much taller buildings (RS1 and RS2). As a consequence the total area of the development would increase.
- 4.10 As such, the amended planning application description will now be read as follows:
- 4.11 *"Erection of Class B1 office buildings (330,963 sq. m) comprising two towers (max 241.1m and 191.34m AOD) with a lower central link building (89.25m AOD) and Class A1, A2, A3, A4 and A5 uses (retail, financial/professional services, restaurant/ café, drinking establishments and hot food takeaway) at promenade level up to a maximum of 2367 sq.m together with ancillary parking and servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art and other ancillary works. (total floor space 333,330 sq.m)".*

#### Height Increase of RS3

- 4.12 For the March 2007 scheme, the height of RS3 was 77.45m AOD. It is proposed that this height be increased by 11.8m AOD to 89.25m AOD for the amended September 2007 scheme.

#### Floor Space Increase

- 4.13 An increased amount of floor space (both Gross External Area and Net Internal Area) is proposed for the September 2007 scheme compared to the March 2007 scheme. The comparison is shown in the Table below.

4.14

	March 2007 Scheme m2	Increase proposed m2	Total proposed for September 2007 Scheme m2
<b>Net Internal Area (NIA)</b>			
Office	170,378	4,276	174,654
Retail	2,367	0	2,367
Total NIA	172,745	4,276	177,021
<b>Gross External Area (GEA)</b>			
Office	324,888	6,075	330,963
Retail	2,367	0	2,367
Total GEA	327,255	6,075	333,330

- 4.15 The GEA has increased by 1.9% and the NIA by 2.5%.

#### External Appearance

- 4.16 Changes to the external appearance are proposed for the September 2007 scheme, compared to the March 2007 scheme, although the key principles of the external appearance remain similar to those set out for the March 2007 scheme.

- 4.17 The angular external structural hangers of RS1 and RS2 have been adjusted to accommodate the change in number and floor to floor heights. The truss expression of RS3 has also been adjusted due to the change in floor levels. The strong diagonal "tracking" elements of the principal facades remain unchanged.
- 4.18 The stair and lift core at the north-east corner of RS3 has been shifted west by 9m in order to avoid conflicting with pedestrian movement through the site from Westferry Road to the riverside. This amendment has the added advantage of enhancing the architectural form of the corner of RS3 when viewed from Westferry Circus and Canary Wharf. To balance the plan a similar adjustment is proposed to the south-west corner of RS3 with the corresponding enhancement to views of the building from the riverside.

### **Site and Surroundings**

- 4.19 The site is located in the northern part of the Isle of Dogs, on land to the south of Westferry Circus. The River Thames forms the western boundary, with Westferry Circus to the north and Westferry Road to the east. To the south lies the South Dock Impounding lock. Westferry Circus separates Riverside South from Canary Riverside which are linked by a riverside walkway.
- 4.20 The application site is approximately 2.52 hectares in area and is currently in temporary use for storage for construction at Canary Wharf.
- 4.21 There is a mixture of land uses surrounding the site. To the north of the site is the first phase of the Riverside development, Riverside Phase I (north), known as Canary Riverside, comprising residential, hotel, leisure, and retail uses in six buildings of between 5 and 23 storeys. To the south, and beyond the South Dock Impounding Lock is the Cascades residential development.
- 4.22 The Jubilee Line tunnels run under the site. The site is well located for public transport, being a short walk from the Canary Wharf, Jubilee Line station and Heron Quays, Canary Wharf and Westferry DLR stations.
- 4.23 The site does not fall within a conservation area but nearby Conservation Areas, including Narrow Street, St Matthias Church, Poplar and All Saints Church are identified within the Environmental Statement. The South Dock Impounding Lock wall to the south of the site is a Grade II listed structure.

## **5. POLICY FRAMEWORK**

- 5.1 For details of the status of relevant policies see the front sheet for "Planning Applications for Decision" agenda items. The following policies are relevant to the application:

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

Proposals:

- Central Area Zone (5)
- Strategic Riverside Walkway (14)
- Sites of Nature Conservation Importance (10)
- Flood Protection Area (18)
- Within 200m of east/west Crossrail (2)

Policies:

DEV1	Design Requirements	Environmental Requirements
DEV2	Planning Obligations	
DEV4	High Buildings within the Central Area & Business Core	
DEV12	Design of Landscape Scheme	
DEV17	Public Art	

DEV46	Strategic Riverside Walkways and New Development
DEV48	Noise
DEV50	Contaminated Land
DEV51	Development & Waste Disposal
DEV55	Waste Recycling
DEV56	Nature Conservation & Ecology
DEV57	Development Adversely Affecting Sites of Nature
DEV65	Protection of Existing Walkways
DEV69	Efficient Use of Water
CAZ1	Location of Central London Core Activities
CAZ4	Diversity, character and functions of the Central Area Zones
EMP1	Encouraging New Employment Uses
EMP2	Retaining Existing Employment Uses
EMP6	Employing Local People
T16	Impact of Traffic
T18,19, 21	Pedestrian Safety and Convenience
T27	Freight
S1	District Centre Policy
S7	Special Uses
S10	New Shop fronts
U2-U3	Tidal & Flood Defences

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

Proposals:		Isle of Dogs Area Action Plan (AAP)
	ID38	Development Sites (Employment B1, Retail & Leisure A1, A2, A3, A4 & A5)
	CP15	Major Town Centre – Isle of Dogs Town Centre Frontage – Secondary
	CP30	Public Open Space – River Thames Waterfront
	CP33	Sites of Importance for Nature Conservation
	CP36	Blue Ribbon Network – Tidal Water
	CP36	Strategic Riverside Walkway
	CP37	Flood Risk Area
	CP43	Strategic Cycle Route
Core Strategies:	IMP1	Planning Obligations
	CP1	Creating Sustainable Communities
	CP2	Equal Opportunity
	CP3	Sustainable Environment
	CP4	Good Design
	CP5	Supporting Infrastructure
	CP7	Job Creation and Growth
	CP8	Tower Hamlets Global Financial and Business Centre and the Central Activities Zone
	CP16	Vitality & Viability of Town Centres
	CP17	Evening & Nigh time Economy
	CP30	Improving the Quality and Quantity of Open Spaces
	CP31	Biodiversity
	CP33	Sites of Importance for Nature Conservation
	CP36	Water Environment and Waterside Walkways
	CP37	Flood Alleviation
	CP38	Energy Efficiency and Production of Renewable Energy
	CP39	Sustainable Waste Management
	CP40	Sustainable Transport Network
	CP41	Integrating Development with Transport
	CP42	Streets for People
	CP43	Better Public Transport

CP44 Promoting Sustainable Freight Movement  
 CP46 Accessible and Inclusive Environments  
 CP47 Community Safety  
 CP48 Tall Buildings  
 CP50 Important Views

Policies:

DEV1 Amenity  
 DEV2 Character & Design  
 DEV3 Accessibility & Inclusive Design  
 DEV4 Safety & Security  
 DEV5 Sustainable Design  
 DEV6 Energy Efficiency & Renewable Energy  
 DEV7 Water Quality and Conservation  
 DEV8 Sustainable Drainage  
 DEV9 Sustainable Construction Materials  
 DEV10 Disturbance from Noise Pollution  
 DEV11 Air Pollution and Air Quality  
 DEV12 Management of Demolition and Construction  
 DEV13 Landscaping and Tree Preservation  
 DEV14 Public Art  
 DEV15 Waste and Recyclables Storage  
 DEV16 Walking & Cycling Routes & Facilities  
 DEV17 Transport Assessments  
 DEV18 Travel Plans  
 DEV19 Parking for Motor Vehicles  
 DEV20 Capacity of Utility Infrastructure  
 DEV21 Flood Risk Assessment  
 DEV22 Contaminated Land  
 DEV27 Tall Buildings Assessment  
 RT2 Secondary Shopping Frontages  
 RT5 Evening & Night time Economy  
 OSN3 Blue Ribbon Network & the Thames Policy Area  
 CON5 Protection & Management of Important Views  
 IOD1 Spatial Strategy  
 IOD2 Transport and Movement  
 IOD5 Public Open Space  
 IOD6 Water Space  
 IOD7 Flooding  
 IOD8 Infrastructure Capacity  
 IOD9 Waste  
 IOD10 Infrastructure and Services  
 IOD13 Employment Uses  
 IOD15 Retail and Leisure  
 IOD16 Design and Built Form  
 IOD17 Site Allocations

**Supplementary Planning Guidance/Documents**

Designing Out Crime  
 Sound Insulation  
 Landscape Requirements  
 Riverside Walkways  
 Shopfront Design

**Spatial Development Strategy for Greater London (London Plan)**

3B.1 Developing London's Economy  
 3B.2 Office Demand and Supply  
 3B.3 Office Provision



3B.4	Mixed Use Development
3C.1	Integrating Transport and Development
3C.22	Parking
3C.24	Freight Strategy
3D.2	Town Centre Development
3D.12	Biodiversity & Nature Conservation
4A.2	Spatial Policies for waste Management
4A.6	Improving Air Quality
4A.7	Energy Efficiency and Renewable Energy
4A.8	Energy Assessment
4A.9	Providing for Renewable Energy
4A.10	Supporting the provision of renewable energy
4A.11	Water Supplies
4A.12	Water Quality
4A.13	Waste & Sewerage Infrastructure
4A.14	Reducing Noise
4B.1	Design Principles for a compact city
4B.2	Promoting world class architecture and design
4B.3	Maximising the potential of sites
4B.4	Enhancing the Quality of the Public realm
4B.5	Creating an inclusive environment
4B.6	Sustainable Design and construction
4B.7	Respect Local context and communities
4B.8	Tall Buildings
4B.9	Large scale buildings, design and impact
4B.15	London View Protection Framework
4C.1	Blue Ribbon Network
4C.2	Context for Sustainable Growth
4C.3	Natural Value of the Blue Ribbon Network
4C.4	Natural Landscape
4C.6	Flood Plains
4C.7	Flood defences
4C.8	Sustainable Drainage
4C.12	Sustainable Growth Priorities for the Blue Ribbon Network
4C.14	Freight uses on the Blue Ribbon Network
4C.17	Increasing Access alongside and to the Blue Ribbon Network
4C.20	Design
4C.21	Design Statement
4C.24	Importance of the Thames
4C.25	Thames Policy Area

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

PPG1	Generally Policy and Principles
PPS1	Delivering Sustainable Development
PPG4	Industrial and Commercial Development and Small Firms
PPS6	Planning for Town Centres
PPG13	Transport
PPG15	Listed Buildings/Structures
PPS22	Renewable Energy
PPG24	Planning & Noise
PPS25	Flood Risk

**Community Plan** The following Community Plan objectives relate to the application:

- A better place for living safely
- A better place for living well
- A better place for creating and sharing prosperity
- A better place for learning, achievement and leisure

## **6. CONSULTATION RESPONSE**

- 6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

### **LBTH Highways Development**

- 6.2 No additional comments were received in response to the September 2007 amendments to the scheme.

### **LBTH Strategic Transport**

- 6.3 No additional comments were received in response to the September 2007 amendments to the scheme.

### **LBTH Environmental Health**

#### Air Quality

- 6.4 No additional comments were received in response to the September 2007 amendments to the scheme.

#### Contaminated Land

- 6.5 No objection subject to conditions.

#### Noise

- 6.6 No additional comments were received in response to the September 2007 amendments to the scheme.

### **LBTH Energy Efficiency Unit**

- 6.7 No additional comments were received in response to the September 2007 amendments to the scheme.

### **LBTH Education Development**

- 6.8 No additional comments were received in response to the September 2007 amendments to the scheme.

### **LBTH Access to Employment (Skillsmatch)**

- 6.9 No additional comments were received in response to the September 2007 amendments to the scheme.

### **LBTH Ideas Store**

- 6.10 No additional comments were received in response to the September 2007 amendments to the scheme.

### **LBTH Building Control**

- 6.11 No additional comments were received in response to the September 2007 amendments to

the scheme.

#### **LBTH Cleansing**

- 6.12 No additional comments were received in response to the September 2007 amendments to the scheme.

#### **LBTH Horticulture & Recreation**

- 6.13 No additional comments were received in response to the September 2007 amendments to the scheme.

#### **LBTH Corporate Access Officer**

- 6.14 No additional comments were received in response to the September 2007 amendments to the scheme.

#### **English Heritage (Statutory Consultee)**

- 6.15 No additional comments were received in response to the September 2007 amendments to the scheme.

#### **English Heritage (Archaeology) (Statutory Consultee)**

- 6.16 No additional comments were received in response to the September 2007 amendments to the scheme.

#### **Environment Agency (Statutory Consultee)**

- 6.17 No objection subject to conditions.

#### **Government Office for London (Statutory Consultee)**

- 6.18 No comment received.

#### **Natural England (Statutory Consultee)**

- 6.19 No additional comments were added in response to the September 2007 amendments to the scheme.

#### **British Waterways**

- 6.20 No additional comments were added in response to the September 2007 amendments to the scheme. Therefore, no objection.

#### **Greater London Authority (Statutory Consultee)**

- 6.21 The GLA advised that the changes proposed are not significant enough to warrant another stage 1 report to the Mayor in advance of you reporting the revised scheme to committee. However, they advised that any decision from the committee should be reported back to the Mayor for Stage 2 referral.

- 6.22 Further, the GLA have suggested that the energy condition be amended along the lines of *'The low and zero carbon technologies shall reduce carbon dioxide emissions from the development by at least 12.95%. The approved CCHP system and renewable energy technologies shall be implemented and retained for so long as the development shall exist except to the extent approved in writing by the local planning authority'*.

## **TFL**

- 6.23 No formal additional comments were added in response to the September 2007 amendments to the scheme. However, the TFL representative for the scheme advised that with regard to the cycle space provision that though the provision is less than the TfL cycle parking standards, TFL were not going to ask the mayor to direct refusal on this matter last time round and they doubt if they would direct refusal on this matter if there is to be another stage 2 report.

## **Corporation of London**

- 6.24 No additional comments were received in response to the September 2007 amendments to the scheme.

## **Docklands Light Rail**

- 6.25 No additional comments were received in response to the September 2007 amendments to the scheme.

## **London City Airport**

- 6.26 No additional comments were received in response to the September 2007 amendments to the scheme.

## **Metropolitan Police**

- 6.27 No additional comments were received in response to the September 2007 amendments to the scheme.

## **CABE**

- 6.28 No additional comments were added in response to the September 2007 amendments to the scheme.

## **BBC – Reception Advice**

- 6.29 No additional comments were received in response to the September 2007 amendments to the scheme.

## **Greenwich Society**

- 6.30 No additional comments were received in response to the September 2007 amendments to the scheme.

## **LB Greenwich**

- 6.31 No additional comments were received in response to the September 2007 amendments to the scheme.

## **LB Southwark**

- 6.32 No additional comments were received in response to the September 2007 amendments to the scheme.

## **Thames Water**

- 6.33 Recommended a number of conditions to ensure that foul and/ or surface water discharge from the site does not prejudice the existing sewerage system and to ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

## **London Fire & Civil Defence Authority**

- 6.34 No additional comments were received in response to the September 2007 amendments to the scheme.

## **Port of London Authority**

- 6.35 No additional comments were added in response to the September 2007 amendments to the scheme.

## **National Air Traffic Control Services**

- 6.36 No objection.

## **7. LOCAL REPRESENTATION**

- 7.1 A total of 1036 neighbouring properties within the area shown on the map appended to this report were notified of the application and invited to comment. The application has also been publicised in East End Life and on site. The number of additional representations received from neighbours and local groups in response to notification and publicity of the amendments to the application were as follows:

Consultation (September 2007):

No of individual responses: 2                      Objecting: 2      Supporting: 0  
No of petitions received: 0

- 7.2 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

### Land Use

- 7.3 There is an objection to the removal of retail element at ground level along the river and to the south of the site as approved in 2005. It has been raised that the removal of the retail element and active frontages may lead to this area being blank and sterile with little activity.
- 7.4 (OFFICER COMMENT: This issue was previously raised in the committee report that was considered and found to be acceptable by the Strategic Development Committee on the 21<sup>st</sup> June 2007).

### Amenity

- 7.5 The building works should be kept to reasonable working hours (i.e. 9am to 5pm with 1hr of quiet works until 6pm week days and no trucks arriving before 8:30am). Weekend works should not take place on Sundays and Saturday quiet works only 9am to 1pm with no trucks. Residents should be protected from excessive noise pollution, especially outside of normal office working hours and weekends.
- 7.6 (OFFICER COMMENT: This matter was previously raised in the committee report that was considered and found to be acceptable by the Strategic Development Committee on the 21<sup>st</sup> June 2007. The construction hours and the level of noise emitted from the site are to be restricted via planning condition).

## **8. MATERIAL PLANNING CONSIDERATIONS**

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

- 8.2 1. Land Use
2. Tall Buildings
3. Design & Layout
4. Amenity
5. Sustainability & Renewable Energy
6. Transport
7. Biodiversity
8. Other

### **Land Use**

- 8.3 The principle of land use and development of the site has previously been accepted through the granting of the existing planning permission (PA/03/00377) on the 8<sup>th</sup> June 2005.
- 8.4 Further, the principle of land use and development of the site was considered to be acceptable by the Strategic Development Committee on the 21<sup>st</sup> June 2007. The proposed amendments do not introduce any new uses.
- 8.5 The increase in floor space (net internal area) from 172,745sqm to 177,021sqm (NIA) has been assessed where this has the potential to change the employment generation during operation. The increase in floor space is due to 4,276sqm additional office space.
- 8.6 The increase in floor space has resulted in a small increase in the number of jobs expected to be accommodated by the proposed September 2007 scheme compared to the March 2007 scheme. This raises the employment level from just over 11,516 to 11,801 jobs (an increase of 285 jobs).
- 8.7 This change is not considered to result in any significant effect beyond those previously assessed and approved by the Committee. As such, the scheme amendments are considered to be consistent with the policy assessment within the attached 21<sup>st</sup> June committee report and are considered to be acceptable.

### **Tall Buildings**

- 8.8 The principle of the site as a location for tall buildings has been approved by the Strategic Planning Committee, in response to the 21<sup>st</sup> June 2007 committee report. As mentioned above, the amendments do not increase the height of either of the other much taller buildings (RS1 and RS2).
- 8.9 It is to be noted that Policy DEV5 of the UDP, which was considered as part of the previous assessment, is no longer a material consideration in light of the Secretary of States recent direction. Notwithstanding, this will not effect the determination by the Council where the relevant London Plan and Interim Planning Guidance policies were previously considered.
- 8.10 The increase in height of building RS3 is considered to potentially affect the east - west views as RS1 and RS2 would themselves screen views of RS3 from the other viewpoints. Therefore, the applicant reassessed a number of views.
- 8.11 The amended environmental assessment identified that there would be no differences in the townscape or visual effects identified within the March 2007 assessment when compared with the September 2007 scheme. However, whilst there would be a change in view in the immediate context, the impact is considered to be acceptable.

- 8.12 The two tall towers (RS1 and RS2) and central podium building (RS3) would continue to be compatible with the Canary Wharf grouping of buildings. RS3 would continue to maintain the 'visual window' experienced when looking west from open spaces to the east. Public activity at ground level, at the interface of the building and external terrace and park spaces, would remain unchanged.
- 8.13 In terms of architectural detail, the key elements of the external appearance of RS1, RS2 and RS3 would follow the same principles of the March 2007 scheme.
- 8.14 The Council's Design and Conservation officer advised that the *"proposed changes to the already consented scheme would not have any negative impact on townscape. The elevation alterations are beneficial to the overall design and appearance of the towers"*.

#### Strategic Views

- 8.15 Since the Committee Resolution of the 21<sup>st</sup> June 2007, the Mayor published the London View Management Framework Supplementary Planning Guidance, dated 13 July 2007. Also, the CABE/EH Guidance on Tall Buildings has been updated and published in July 2007. The revised guidance within these documents does not affect the assessment methodology for this scheme. The site does not fall within a strategic view corridor.

#### **Design & Layout**

##### Materials

- 8.16 The architectural form and principal structure of the scheme has undergone refinement as a result of the revised scheme. The external appearance of the façade of the towers remains similar to that previously approved, subject to the refinements mentioned above.
- 8.17 In order to achieve a high quality finish details of final finishes and cladding details would be required for as a condition of approval including the detailing of all external materials and a 'typical cladding detailed mock up'.

##### Accessibility & Inclusive Environments

- 8.18 The applicant has confirmed that the amendments made to the proposal that was presented to the Strategic Development Committee 21<sup>st</sup> June 2007 do not have any implications on MIP (Mobility Impaired Persons) access issues. The changes to the scheme have been designed with disabled access in mind, and these take into the relevant policy, regulations and good practice.
- 8.19 Options will continue to be considered throughout detailed design and beyond, to ensure the building is fully accessible. Further access assessment and consultation will be required throughout any future design progression.
- 8.20 The scheme will be expected to comply with the conclusion identified in the Design and Access Statement March 2007. The scheme should therefore be conditioned appropriately.

##### Safety & Security

- 8.21 The scale of the proposed development and the likely number of occupants generated at this location will result in a greater concentration of activity within this area. As a result of this very substantial site population and of the security policies of tenants, the site will result in enhanced surveillance. An associated lighting and CCTV scheme will ensure that the site, its immediate connections and neighbouring spaces and links will be continuously observed by people and monitoring systems.

8.22 Therefore, the conclusions of the March 2007 assessment remain unchanged for the proposed September 2007 scheme.

## **Amenity**

### Assessing daylight and sunlight

8.23 The increase in height of RS3 of 11.8m has potential implications for sunlight/daylight and overshadowing, which is assessed below:

#### *Surrounding Residential Properties*

8.24 None of the properties to the south of the development would have any view of building RS3 or the proposed extension. There would therefore be no reduction in visible sky and therefore no additional impact compared to the results of the March 2007 assessment.

8.25 The only residential properties, which have a view of building RS3 are located within the eastern section of Berkeley Tower to the north west of the site. With the September 2007 amended scheme in place there would be some additional impact to the levels of daylight and sunlight received as a result of the small area of additional massing, but the change in massing is so small that the change in daylight and sunlight value would be imperceptible to residents of these properties.

#### *Surrounding Open Spaces*

8.26 The March 2007 assessment of overshadowing within the surrounding open spaces and general environment concluded that the impacts would be negligible. The main cause of overshadowing from the March 2007 scheme, were the two taller buildings; RS1 and RS2. The small increase in height to the lower building, RS3, would not have any noticeable impact upon the amount of permanent overshadowing received within the surrounding open amenity spaces and would have very little effect upon the general amount of overshadowing caused.

8.27 Therefore, the conclusions of the March 2007 assessment remain unchanged for the proposed September 2007 scheme.

## Noise

8.28 There would be minimal additional trips by car generated due to the increased floor space. The change in traffic generation is considered to be so small that there would not be a change to this overall conclusion in the March 2007 ES report. Therefore, whilst the figures for traffic generation would be slightly higher leading to slightly higher figures for traffic noise, this change is so small that the overall conclusions set out in the March 2007 ES remains appropriate for the September 2007 scheme.

## Microclimate

8.29 The change to the height of RS3 is not anticipated to significantly change the findings of the assessments for the March 2007 scheme. The wind flow around particular groups of buildings is largely determined by their massing and juxtaposition to other nearby buildings. The 11.8m increase in the height of RS3 does not substantially alter the overall massing of neither the Riverside South building group nor its relationship to surrounding buildings. For the prevailing south west winds, the increase in height of RS3 by 11.8 m is expected to result in less spillage of the flow over the top of RS3 and more flow would be pushed horizontally along the west side of the development and around the ends of RS1 and RS2. This change in expected trend is likely to be a subtle one. Therefore, the assessment reported for the March 2007 scheme remains appropriate for the September 2007 scheme. The scheme



should therefore be conditioned appropriately.

### Construction Impacts

8.30 A Construction Environmental Management Plan (CEMP) is still required to cover all aspects of the construction activity, both on-site and those that may affect surrounding areas, for example the management of construction traffic. Other activities that may cause a nuisance to nearby residents and workers would be monitored.

### **Sustainability & Renewable Energy**

8.31 The applicant has identified a mistake in the interpretation of the Energy Strategy document (14 march 2007) prepared by Hilson Moran Partnership.

8.32 The Energy Strategy document contains the following recommendations for the scheme:

- 18.1% energy savings from passive design;
- 12.95% from CHP (tri-generation) and renewable technologies (with 2.8% being from renewable technologies and the rest from tri-generation).

8.33 However, the applicant has noted that the Stage 1 and 2 reports for the scheme appear to confuse the 18.1% (passive design) and the 12.95% (Tri-generation and renewables). The report identifies that the 18.1% comes from renewables and CHP. Following is an excerpt from the Stage 1 report:

8.34 *"15 A very positive feature of the revised scheme relates to the incorporation of renewable energy technologies, which were absent from the previously consented scheme. The revised scheme has been modelled to indicate total carbon dioxide savings of 18.1% in addition to savings required to meet 2006 building regulations. These savings come primarily from the use of combined cooling heat and power (10.4%-14.6% depending on final operation) coupled with the following renewable energy technologies:*

- *PV panels.*
- *Ground source cooling.*
- *Dual fuel gas/biofuel boilers.*

*17 The renewable energy saving is stated as 2.8%, but is limited by the use of trigeneration"*

8.35 Within the Committee report the GLA's specific comments in respect of energy and renewables were not recorded. However, the misunderstanding is reflected within the current draft wording of Condition 39 which states:

8.36 *"The renewable energy technologies shall reduce carbon dioxide emissions from the development by at least 18.1% of the developments energy demand. The approved renewable energy technologies shall be implemented and retained for so long as the development shall exist except to the extent approved in writing by the local planning authority"*.

8.37 The GLA have acknowledged the misinterpretation of the energy report and have requested that the condition be amended to ensure the 12.95% reduction in carbon emissions from CHP and renewables is secured.

8.38 Accordingly, the proposed energy strategy is considered to be appropriate. The wording of this energy condition should be amended to ensure the low and zero carbon technologies reduce carbon dioxide emissions from the development by at least 12.95%.

### Water Conservation

- 8.39 An increase in floor space has the potential to affect water demand and the discharge of foul effluent. The March 2007 Environmental Statement reported effects of negligible significance for both of these. The applicant is of the opinion that the increase in floor space is small and that the assessment remains appropriate.
- 8.40 Thames Water has recommended a number of conditions to ensure that foul and/ or surface water discharge from the site does not prejudice the existing sewerage system and to ensure that the water supply infrastructure has sufficient capacity to cope with the additional demand.

### Waste

- 8.41 The increase in net internal area would increase the population by 2.5%. This is anticipated to increase the waste production by approximately 2.5%.
- 8.42 The minor increase in waste could potentially result in minor alterations to the size and/or collection frequency for collection of general waste and recycling bins from individual floors, however the size of bins and frequency of collection from the centralised general waste and recycling points would remain unchanged. This is due to the bin capacity for the original scheme having a degree of redundancy. Therefore there would not be any additional impacts of traffic movement for waste collection from the development as a result of the increase in population. The actual operational waste production would vary from the figures used due to differences in the procurement and waste management policies of the individual tenants, who are as yet unknown. Detailed calculations of waste arising will form the basis of a detailed Waste Management Strategy to be developed once more information on likely tenants is known. The scheme should therefore be conditioned appropriately.

### Air Quality

- 8.43 There would be minimal additional trips by car generated due to the increased floor space. The change in traffic generation is considered to be so small that there would not be a change to the overall conclusion in the March 2007 report. Therefore, whilst the figures for traffic generation would be slightly higher leading to slightly different figures for traffic emissions, this change is so small that the overall conclusions set out remain appropriate for the September 2007 scheme.
- 8.44 In order to mitigate these impacts a Construction Environmental Management Plan (CEMP) will be drafted setting out measures to be applied throughout the construction phase would apply to site.
- 8.45 During the operational phase, encouraging sustainable transport and reducing dependence on the private car would reduce the impact of the development in terms of both greenhouse gases and pollutants. The scheme will therefore be conditioned appropriately.

### **Transport**

- 8.46 The increase in floor space from 327,255m<sup>2</sup> to 333,330m<sup>2</sup> GEA has been assessed due to potential implications for transport movements from more space required to accommodate employees during operation. This equals a 1.9% increase in gross area above the March 2007 scheme. For the purposes of predicting traffic generation, the GEA is used as this generates a higher number of employees and therefore trips that leads to the worst case assessment for this topic.
- 8.47 The additional floor space would be for office use and as such would accommodate an increase in the number of employees to that of the March 2007 scheme. For the purposes of

the assessment of effects on transport, the March 2007 scheme would accommodate 12,700 employees and with the additional floor space it is expected that the additional 6,075sq.m could accommodate approximately 300 employees (based on one employee per 20 square metres of gross floor area – used to generate the worst case for transport movements), therefore a total of 13,000 employees.

- 8.48 In considering the impact on the Jubilee Line and DLR rail capacity, the overall change from the September scheme compared to the March 2007 scheme is negligible.
- 8.49 All of the remaining modes would have minimal additional trips and therefore all effects on the transport network would be negligible for the September 2007 scheme compared to the March 2007 scheme.
- 8.50 The increase in the overall gross floor space would result in a higher number of construction vehicles, however these would be minimal and the effects on the local highway network would remain adverse and of minor significance.

#### Parking

- 8.51 There will be no increase in car parking numbers on site. Further, there will be no increase in the number of cycle parking numbers on site.
- 8.52 It is to be noted that whilst the 21<sup>st</sup> June Strategic Committee Report identified a requirement for 1299 cycle spaces, the draft decision notice only required 345 spaces. The provision of 345 spaces was the agreed provision.
- 8.53 The amended scheme is continuing to propose 345 cycle spaces, which are sufficient for approximately 3.5% of employees to cycle to work, i.e. double the proportion currently observed in the Canary Wharf Employee Survey. The Travel Plan includes measures to encourage higher cycle use and this will be monitored as part of the Travel Plan provisions. If additional cycle parking demand is observed then more cycle spaces will be provided. TFL did not ask the mayor to direct refusal on this matter when the scheme was considered for the June Committee. Further the TFL representative for the revised scheme advised that it is unlikely they would direct refusal if there is to be another stage 2 report.

#### **Biodiversity**

- 8.54 The types of scheme amendments proposed would not lead to any changes to the assessment reported on the March 2007 scheme. In particular, the scheme amendments would not affect the ecological enhancements proposed.

#### **Other**

#### Cultural Heritage

- 8.55 The changes proposed would not affect the area to be covered by the watching brief(s), as agreed for the condition for the 2005 approved scheme. Therefore, the previous assessment remains appropriate for the September 2007 Scheme.
- 8.56 Further, plans were submitted which slightly alter the south east part of the basement wall to ensure pipes which sit within the curtilage of the listed dock wall are not affected by the development. The applicant has confirmed that these changes would be covered by the archaeological watching brief mentioned above. The change represents a non-material alteration.

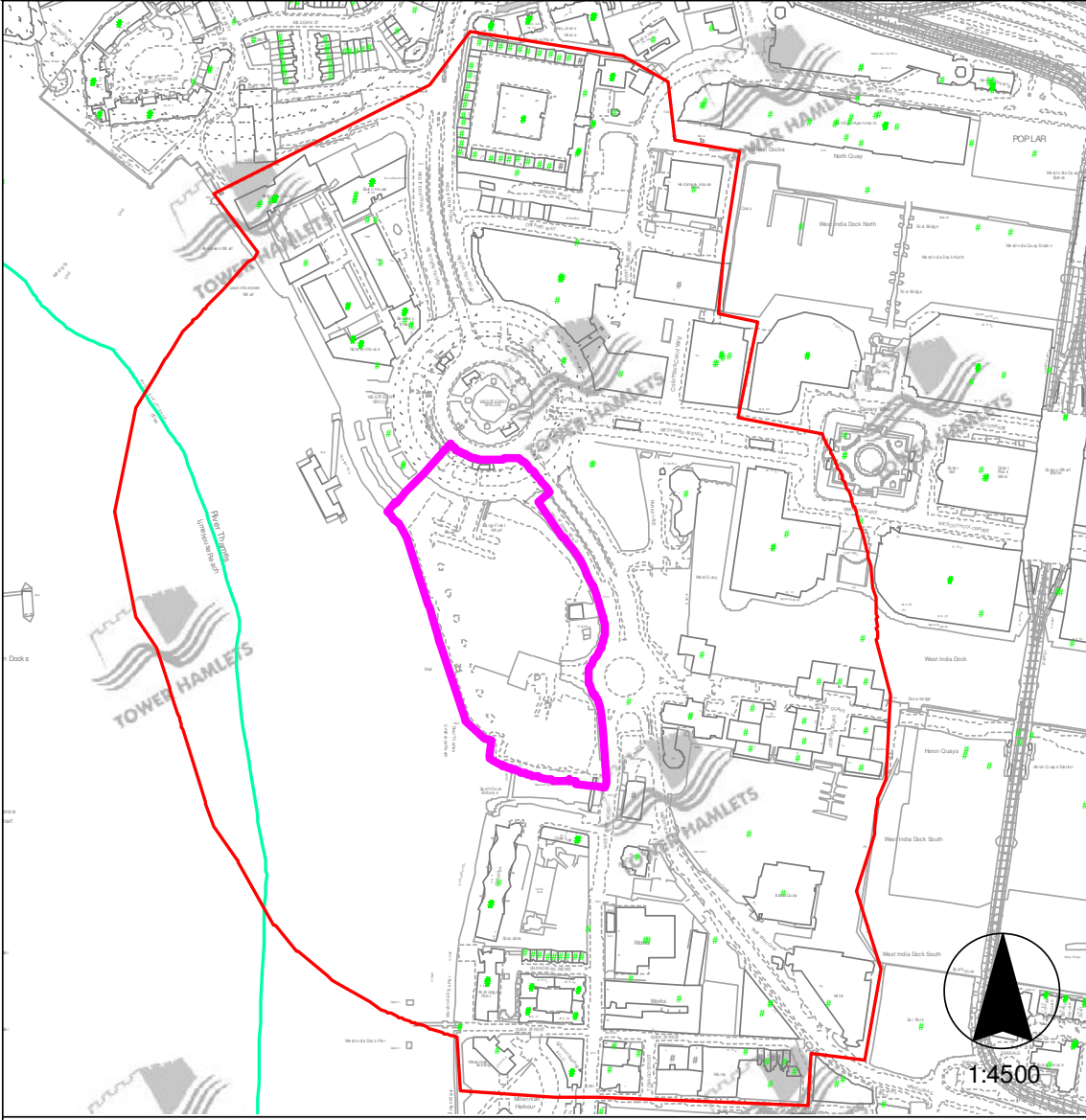
## Environmental Impact Assessment

- 8.57 The Council's Environmental Impact Assessment Officer undertook a review of the addendum to the March 2007 Environmental Statement. The addendum was considered to provide a thorough assessment of the changes to environmental effects that result from the modifications for which a revised planning application is sought.
- 8.58 The assessment was considered to be based on accurate methodology and that all areas of concern were adequately addressed. Mitigation measures are to be implemented through conditions and/ or Section 106 obligations.

## **9. CONCLUSIONS**

- 9.1 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

# Site Map



### Legend

- Planning Application Site Boundary
- Consultation Area
- Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office © Crown Copyright.  
London Borough of Tower Hamlets LA086568

**21<sup>st</sup> June 2007 Strategic Development Committee report**

<b>Committee:</b> Strategic Development	<b>Date:</b> 21 <sup>st</sup> June 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> -----
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Rachel Blackwell		<b>Ref No:</b> PA/07/00935	
		<b>Wards:</b> Millwall	

## 1. APPLICATION DETAILS

<b>Location:</b>	Site south of Westferry Circus and west of Westferry Road, London
<b>Existing Use:</b>	Construction storage area
<b>Proposal:</b>	Erection of Class B1 office buildings (324,888 sq. m) comprising two towers of 45 and 35 storeys (max 241.1m and 191.3m AOD) with a lower central link building (77.450m AOD) and Class A1, A2, A3, A4 and A5 uses (retail, financial/professional services, restaurant/ café, drinking establishments and hot food takeaway) at promenade level up to a maximum of 2367 sq.m together with ancillary parking and servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art and other ancillary works. (total floor space 327,255 sq.m)
<b>Drawing Nos:</b>	900-50007, 900-50008, 900-50009, 900-50009M, 900-50010, 900-50010M, 900-50011, 900-50012, 900-50013, 900-50014, 900-50015, 900-50016, 900-50017, 900-50018, 900-50019, 900-50020, 900-50021, 900-50022, 900-50022M, 900-50023, 900-50024, 900-50025, 900-50026, 900-50027, 900-50028, 900-50029, 900-50030, 900-50031, 900-50032, 900-50033, 900-50034, 900-50035, 900-50036, 900-50037, 900-50038, 900-50039, 900-50040, 900-50041, 900-50042, 900-50043, 900-50044, 900-50045, 900-50046, 900-50047, 900-50048, 900-50049, 900-50050, 900-50051, 900-50052, 900-50053, 900-50054, 900-50055, 900-50056, 900-50201, 900-50231, 900-50301, 900-50302, 900-50311, 900-50312, 900-50321, 900-50322, 900-51000 Environmental Statement – RPS – March 2007 Environmental Statement – Non Technical Summary – RPS - March 2007 Environmental Statement – Volume 6 Supplement – RPS - May 2007 Environmental Statement – Revised Chapter 3 – Regulation 19 for Further Information Sunlight/Daylight Mitigation Design & Access Statement - Rogers Stirk & Partners - March 2007 Planning Statement – March 2007 Consultation Statement Transport Assessment – Steer Davies Gleave - March 2007 Schematic Landscape (indicative only – not for approval) – Rogers Stirk & Partners - May 2007
<b>Applicant:</b>	Canary Wharf Ltd C/- DP9
<b>Owner:</b>	Canary Wharf Ltd
<b>Historic Building:</b>	N/A
<b>Conservation Area:</b>	N/A

## 2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The local planning authority has considered the particular circumstance of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan, associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that:

- This application seeks approval for a series of revisions from the previously approved scheme on the site, dated 8th June 2005 (PA/03/00377). In principle, the proposed development is acceptable, subject to an appropriate planning obligations agreement and conditions to mitigate against the impact of the development.
- It is considered that the development would not have an adverse impact on the residential amenity of any nearby properties. A number of conditions are recommended to secure submission of details relating to materials, landscaping, external lighting, and plant, and to control noise and hours of construction.
- The submitted Environmental Impact Assessment is satisfactory, including the cumulative impact of the development, with mitigation measures to be implemented through conditions and a recommended legal agreement.
- The development would form a positive addition to London's skyline, without causing detriment to local or long distant views.
- The scheme would result in the benefits of job creation. The development would also enhance the streetscape and public realm through the provision of a public open space area and improved pedestrian linkages through the site and along the River Thames.
- The proposal incorporates a number of sustainability measures.

## 3. RECOMMENDATION

3.1 That the committee resolve to **GRANT** planning permission subject to:

A. Any direction of the Mayor;

B. The prior completion of a **Legal Agreement** to the satisfaction of the Chief Legal Officer, to secure the following:

1) Public Transport

Contribution towards DLR enhancement works - **£3,000,000**;

Contribution to TfL towards enhancements to the No. 135, 330 and the 330 bus services (**£900,000 – paid in sums of £300,000 per annum**);

2) Public Realm

Provision and maintenance of the new open space at the southern end of the site, the riverside walkway within the site and other areas of public realm within the site - **£5,343,000**;

3) Isle of Dogs Community Foundation

Contributions towards social and community facilities - **£2,500,000**;

4) Highways Works

Provision of pedestrian crossing to the north of Heron Quays Roundabout - **£236,000**

Contribution towards upgrade of Heron Quays Roundabout - **£607,000**



5) Lease of Skills Match / IDEA Store

16 years 6 month lease of the IDEA Store / 10 year lease of the Skills Match Unit at peppercorn rents - **£5,312,000**;

6) Community and Social Infrastructure Provision – projects to be determined through strategy for each area - total of **£4,545,000**

- Employment, Skills and Training
- Sustainable Transport Initiatives
- Public Realm, Design and Open Space Improvements
- Sports facility improvements

7) Preparation of a Travel Plan Framework - to be completed prior to the commencement of the development. The Travel plan will be subject to ongoing monitoring and review

8) Code of Construction Practice

9) TV and Radio Reception

3.2 That the Head of Development Decisions is delegated power to impose conditions and informative on the planning permission to secure the following:

**Conditions**

1. Time limit;
2. Details of the following are required prior to the commencement of the development:
  - a) Samples of all external building materials including a 'typical cladding detail mock up.'
  - b) Detailed design of all lower floor elevations, including shop fronts;
  - c) Details of hard soft landscaping, including walkways, design and layout of new park, tree planting scheme, street furniture, CCTV and all external lighting;
  - d) Public art;
  - h) Details of all boundary wall treatments including walls, fences, railings and gates;
3. Submission of details of external ventilation/extract ducts to A3, A4, A5 units;
4. Submission of details of high level/roof top plant and sound attenuation;
5. Submission of details of refuse/recycling proposals, including a waste management strategy;
6. Submission of details of disabled access (also to address the matters raised in councils letter of the 15<sup>th</sup> May 2007 in regards to accessibility);
7. Submission of details of the location of a proposed taxi rank;
8. Submission of details of the location of suitable riparian life saving equipment along the riverside walkway;
9. Submission of details of external lighting to be used during construction and on completion of the development to be considered in consultation with the Port of London Authority;
10. River Barges must be used where feasible for the transport of materials to/from the site in both construction and on completion of the development. A strategy must be submitted detailing the use of barges to be considered in consultation with the Port of London Authority;
11. Submission of a landscape Management Plan;
12. Planting, seeding Turfing;
13. Submission of a Ecological Management Plan detailing ecological mitigation measures throughout the development, including timber fenders and enhancements to the river wall, use of native vegetation in landscaping proposals, provision of brown roofs, green walls and bird boxes.
14. Completion of the restaurant/retail units prior to occupation of any other part of the Development.
15. Submission of details of the method of construction including details of use location and height of cranes and other structures to be considered in consultation with London City Airport;
16. When not in use cranes are to be parked parallel to the runway centre line with London

City Airport;

17. Buildings must be equipped with aircraft obstacle lighting.

18. Submission of design specifications of acoustic screens for cooling towers/air cooled chillers;

19. Submission of a Construction Environmental Management Plan (EMP) setting out measures to be applied during the construction phase, relating to site planning, construction vehicles, demolition and construction activities on the site;

20. The following parking spaces are to be provided:

- A maximum of 150 car parking spaces of which 10% must be allocated for disabled users.
- A minimum of 1300 cycle spaces for the office element and a minimum of 8 spaces located at the entrance for the retail element.
- 132 motorcycle spaces.

21. Restriction of access from podium level down to Westferry Circus to Emergency Vehicles only.

22. Submission of a detailed plan to ensure that the barrier to the basement access is setback from the highway in order to allow for sufficient space to allow for queuing vehicles.

23. Submission of a service management plan detailing a servicing scheme for deliveries and servicing throughout the site;

24. Limit hours of construction to between 8.00 Hours to 18.00 Hours, Monday to Friday and 8.00 Hours to 13.00 Hours on Saturdays.

25. Air Quality Monitoring;

26. Level of noise emitted from the site to be restricted.

27. Ground borne vibration limits.

28. Limit hours of power/hammer driven piling/breaking out to between 10.00 Hours to 16.00 Hours, Monday to Friday.

29. Details of a monitoring and control regime of the Environmental Management Plan.

30. Investigation and remediation measures for land contamination (including water pollution potential).

31. Details of the construction of the site foundations.

32. Details of surface and foul water drainage system required.

33. Impact study of water supply infrastructure required.

34. Details of Water Efficiency measures.

35. Renewable energy measures to be approved in writing by the Local Planning Authority in consultation with the Greater London Authority and implemented in perpetuity.

36. Implementation of a programme of archaeological work in accordance with the written scheme of investigation.

37. S278 to be entered into for highway works surrounding the site.

38. Any other condition(s) considered necessary by the Head of Development Decisions.

#### **Informatives:**

1. Section 106 agreement required;

2. Section 278 (Highways) agreement required;

3. River works licensing (Port of London Authority);

4. Riparian lifesaving equipment provided to the 1991 Hayes Report Standards (Port of London Authority);

5. Site notice specifying the details of the contractor required

6. Construction Environmental Management Plan Advice

7. Use of Thames to transport bulky materials

8. London City Airport Advice

9. All cycle parking is to be provided in accordance with the London Cycle Network Manual.

10. Environmental Health Department Advice

11. Advertising signs and/or hoardings consent

12. Contact the GLA regarding the energy proposals

13. Any other informative(s) considered necessary by the Head of Development Decisions

- 3.3 That if by the 21<sup>st</sup> September 2007 the legal agreement has not been completed to the satisfaction of the Chief Legal Officer; the Head of Development Decisions is delegated power to refuse planning permission.

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

##### **Planning History**

- 4.1 Planning permission was granted for the redevelopment of the site on the 8<sup>th</sup> June 2005 (ref PA/03/00377). This application proposed the following:

*“Erection of B1 office buildings (273,171 sq.m) comprising two towers of 43 and 37 storeys (max. 220m and 195m AOD) with a lower central link building (53m AOD) and A1, A2, A3, A4 and A5 uses (A1 retail limited to 2499 sq m, financial/professional services, restaurants/cafes, pubs/bars, and hot food takeaways) at promenade level up to a maximum of 5904 sq m, together with ancillary parking & servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art, and other ancillary works. (Total floor space of 279,075 sq m).”*

##### **Proposal**

- 4.2 An Application has been made for full planning permission for the following:

*“Erection of Class B1 office buildings (324,888 sq. m) comprising two towers of 45 and 35 storeys (max 241.1m and 191.3m AOD) with a lower central link building (77.450m AOD) and Class A1, A2, A3, A4 and A5 uses (retail, financial/professional services, restaurant/ café, drinking establishments and hot food takeaway) at promenade level up to a maximum of 2367 sq.m together with ancillary parking and servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art and other ancillary works. (total floor space 327,255 sq.m).”*

- 4.3 The rationale behind the reconsideration of the scheme is to refine and enhance the design and to respond to current market demands. The other major drivers include design improvements associated with enhancements in terms of townscape and views, demands for increased security, and increased energy efficiency.

##### *External Appearance*

- 4.4 The siting, of the three principal elements of the scheme is similar to those of the approved scheme. The two towers are placed in locations generally identical to the previous tower locations. The towers sit north and south of the existing Jubilee Line running tunnels, with the central trading building above the tunnels between the towers. The south face of RS1, the south tower, is in an identical position to that of the previous scheme. The north tower is moved marginally north within the overall site and retains the same relationship to Westferry Circus as the approved scheme.
- 4.5 In order to respond to potential tenant requirements, building plant accommodation and requirements for utility and enhanced security, the overall silhouette of the proposal has been modified. Furthermore, in response to the increased demand for plant and support space, and the requirement for unobstructed (column-free) trading floors the existing massing has been modified to result in a different plan form and building heights.
- 4.6 RS1 would be the tallest of the three buildings at a height of 241.140 AOD. RS2 would be 191.340 AOD. RS3 would be 77.45m AOD. These heights include building plant space and aircraft warning lights. The shoulders of the two towers would be 212.200m AOD for RS1 and 162.400m AOD for RS2.

### *Layout, Uses and Floor space*

- 4.7 The scheme includes four levels of basements which comprise servicing areas, plant space, car parking and cycle parking. Above the basement, RS1 rises to 45 levels, RS2 35 levels and RS3 7 levels.
- 4.8 The majority of the floor space within the development is for office use, including ancillary uses such as restaurants, gymnasias and conference facilities. Retail uses are proposed at promenade and ground levels within RS2 in order to maximise accessibility to the public. The retail floor space is proposed to be within Class A1 – A5 uses to complement the existing retail facilities within the Canary Wharf Estate and serve the needs of office occupiers, visitors and residents.
- 4.9 At ground and promenade level, the retention of retail uses to the south of the site was reconsidered to relate to concerns raised in respect of the approved scheme by residents to the south regarding potential noise nuisance associated with users of bars and restaurants. Therefore, these uses have been concentrated to the north of the site where they will be closer to existing bars and restaurants at Westferry Circus.
- 4.10 The breakdown of the proposed floor spaces are set out below:

<b>Floor space</b>	<b>Proposed sq. m (GEA)</b>
Class B1 Office	324,888
Class A1 to A5 Retail	2,367
<b>Total Floor space</b>	<b>327,255</b>
All parking, servicing, access, plant and storage areas for the entire development (included within the B1)	91,730

### *Highways and Transport*

- 4.11 The proposed vehicular access and egress points are:
- Vehicle access from Westferry Road north of the Heron Quays roundabout – exit and entry to loading docks and car park exit and entry for RS1/RS3.
  - Vehicle access from Westferry Road north of the Heron Quays roundabout – exit and entry for loading dock for RS2.
  - To north bound Westferry Road – relief ramp from upper ground level.
  - From lower Westferry Circus exit and entry for RS2.
  - Upper Westferry Circus entry and exit to RS1/RS3.
  - Upper Westferry Circus entry and exit for RS2.
- 4.12 A total of 150 car parking spaces are proposed. Of these, 120 would be for RS1/RS3 and 30 for RS2. There would be 132 motorcycle parking spaces and 345 bicycle spaces.

### *Landscaping and Open Space*

- 4.13 It is proposed to provide a public park to the south of RS1 with 24 hour public access. There would be trees planted along the River Walk, within the public park and the areas of landscaping on the eastern sides of RS2 and RS1. Planting would be consistent with the standards across the Canary Wharf Estate.

### *Renewable Energy*

- 4.14 As part of the revised scheme it is proposed that renewable energy technologies would provide a minimum of 10% renewable energy.

- 4.15 The planning application is accompanied by a Listed Building consent application (PA/03/00378) for alterations to the listed dock wall structure to facilitate the riverside landscaping works proposed in the application. These are minor matters to which English Heritage has no objection. It is recommended that the application be considered under delegated authority.
- 4.16 The application is accompanied by an Environmental Impact Assessment under the Town and Country Planning (EIA) Regulations 1999, and advertised as an EIA application.

### **Site and Surroundings**

- 4.17 The site is located in the northern part of the Isle of Dogs, on land to the south of Westferry Circus. The River Thames forms the western boundary, with Westferry Circus to the north and Westferry Road to the east. To the south lies the South Dock Impounding lock. Westferry Circus separates Riverside South from Canary Riverside which are linked by a riverside walkway.
- 4.18 The application site is approximately 2.52 hectares in area and is currently in temporary use for storage for construction at Canary Wharf.
- 4.19 There is a mixture of land uses surrounding the site. To the north of the site is the first phase of the Riverside development, Riverside Phase I (north), known as Canary Riverside, comprising residential, hotel, leisure, and retail uses in six buildings of between 5 and 23 storeys. To the south, and beyond the South Dock Impounding Lock is the Cascades residential development.
- 4.20 The Jubilee Line tunnels run under the site. The site is well located for public transport, being a short walk from the Canary Wharf, Jubilee Line station and Heron Quays, Canary Wharf and Westferry DLR stations.
- 4.21 The site does not fall within a conservation area but nearby Conservation Areas, including Narrow Street, St Matthias Church, Poplar and All Saints Church are identified within the Environmental Statement. The South Dock Impounding Lock wall to the south of the site is a Grade II listed structure.

## **5. POLICY FRAMEWORK**

- 5.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:

### **Unitary Development Plan**

Proposals:

Central Area Zone (5)  
 Strategic Riverside Walkway (14)  
 Sites of Nature Conservation Importance (10)  
 Flood Protection Area (18)  
 Within 200m of east/west Crossrail (2)

Policies:

DEV1	Design Requirements	Environmental Requirements
DEV2	Planning Obligations	
DEV4	High Buildings within the Central Area & Business Core	
DEV5	Strategic Views	
DEV7	Provision of Landscaping in Development	
DEV12	Design of Landscape Scheme	

DEV13	Street Furniture
DEV17	Public Art
DEV18	Protection of Waterway Corridors
DEV46 & 47	Strategic Riverside Walkways and New Development
DEV48	Noise
DEV50	Contaminated Land
DEV51	Development & Waste Disposal
DEV55	Waste Recycling
DEV56	Nature Conservation & Ecology
DEV57 & 58	Development Adversely Affecting Sites of Nature
DEV62	Conservation Importance
DEV65	Protection of Existing Walkways
DEV69	Efficient Use of Water
CAZ1	Location of Central London Core Activities
CAZ3	Requirement for Mixed Use Schemes
CAZ4	Diversity, character and functions of the Central Area Zones
EMP1	Encouraging New Employment Uses
EMP2	Retaining Existing Employment Uses
EMP6	Employing Local People
EMP9	Business Use
T15	Transport and Development
T16	Impact of Traffic
T17	Parking Standards
T18-T21	Pedestrian Safety and Convenience
T24	Cyclists Needs in New Development
T27	Freight
S1	District Centre Policy
S6	New Retail Development
S7	Special Uses
S10	New Shop fronts
U2-U6	Tidal & Flood Defences

### **Emerging Local Development Framework**

Proposals:	Isle of Dogs Area Action Plan (AAP)
ID38	Development Sites (Employment B1, Retail & Leisure A1, A2, A3, A4 & A5)
CP15	Major Town Centre – Isle of Dogs
	Town Centre Frontage – Secondary
CP30	Public Open Space – River Thames Waterfront
CP33	Sites of Importance for Nature Conservation
CP36	Blue Ribbon Network – Tidal Water
CP36	Strategic Riverside Walkway
CP37	Flood Risk Area
CP43	Strategic Cycle Route

Core Strategies:	IMP1	Planning Obligations
	CP1	Creating Sustainable Communities
	CP2	Equal Opportunity
	CP3	Sustainable Environment
	CP4	Good Design
	CP5	Supporting Infrastructure
	CP7	Job Creation and Growth
	CP8	Tower Hamlets Global Financial and Business Centre and the Central Activities Zone
	CP16	Vitality & Viability of Town Centres
	CP17	Evening & Nigh time Economy
	CP30	Improving the Quality and Quantity of Open Spaces

CP31	Biodiversity
CP33	Sites of Importance for Nature Conservation
CP36	Water Environment and Waterside Walkways
CP37	Flood Alleviation
CP38	Energy Efficiency and Production of Renewable Energy
CP39	Sustainable Waste Management
CP40	Sustainable Transport Network
CP41	Integrating Development with Transport
CP42	Streets for People
CP43	Better Public Transport
CP44	Promoting Sustainable Freight Movement
CP46	Accessible and Inclusive Environments
CP47	Community Safety
CP48	Tall Buildings
CP50	Important Views

Policies:

DEV1	Amenity
DEV2	Character & Design
DEV3	Accessibility & Inclusive Design
DEV4	Safety & Security
DEV5	Sustainable Design
DEV6	Energy Efficiency & Renewable Energy
DEV7	Water Quality and Conservation
DEV8	Sustainable Drainage
DEV9	Sustainable Construction Materials
DEV10	Disturbance from Noise Pollution
DEV11	Air Pollution and Air Quality
DEV12	Management of Demolition and Construction
DEV13	Landscaping and Tree Preservation
DEV14	Public Art
DEV15	Waste and Recyclables Storage
DEV16	Walking & Cycling Routes & Facilities
DEV17	Transport Assessments
DEV18	Travel Plans
DEV19	Parking for Motor Vehicles
DEV20	Capacity of Utility Infrastructure
DEV21	Flood Risk Assessment
DEV22	Contaminated Land
DEV27	Tall Buildings Assessment
RT2	Secondary Shopping Frontages
RT5	Evening & Nigh time Economy
OSN3	Blue Ribbon Network & the Thames Policy Area
CON5	Protection & Management of Important Views
IOD1	Spatial Strategy
IOD2	Transport and Movement
IOD5	Public Open Space
IOD6	Water Space
IOD7	Flooding
IOD8	Infrastructure Capacity
IOD9	Waste
IOD10	Infrastructure and Services
IOD13	Employment Uses
IOD15	Retail and Leisure
IOD16	Design and Built Form
IOD17	Site Allocations

## **Planning Standards**

Planning Standard 1: Noise  
Planning Standard 3: Parking

## **Supplementary Planning Guidance/Documents**

Designing Out Crime  
Sound Insulation  
Landscape Requirements  
Riverside Walkways  
Shopfront Design

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

3B.1 Developing London's Economy  
3B.2 Office Demand and Supply  
3B.3 Office Provision  
3B.4 Mixed Use Development  
3C.1 Integrating Transport and Development  
3C.22 Parking  
3C.24 Freight Strategy  
3D.2 Town Centre Development  
3D.12 Biodiversity & Nature Conservation  
4A.2 Spatial Policies for waste Management  
4A.6 Improving Air Quality  
4A.7 Energy Efficiency and Renewable Energy  
4A.8 Energy Assessment  
4A.9 Providing for Renewable Energy  
4A.10 Supporting the provision of renewable energy  
4A.11 Water Supplies  
4A.12 Water Quality  
4A.13 Waste & Sewerage Infrastructure  
4A.14 Reducing Noise  
4B.1 Design Principles for a compact city  
4B.2 Promoting world class architecture and design  
4B.3 Maximising the potential of sites  
4B.4 Enhancing the Quality of the Public realm  
4B.5 Creating an inclusive environment  
4B.6 Sustainable Design and construction  
4B.7 Respect Local context and communities  
4B.8 Tall Buildings  
4B.9 Large scale buildings, design and impact  
4B.15 London View Protection Framework  
4C.1 Blue Ribbon Network  
4C.2 Context for Sustainable Growth  
4C.3 Natural Value of the Blue Ribbon Network  
4C.4 Natural Landscape  
4C.6 Flood Plains  
4C.7 Flood defences  
4C.8 Sustainable Drainage  
4C.12 Sustainable Growth Priorities for the Blue Ribbon Network  
4C.14 Freight uses on the Blue Ribbon Network  
4C.17 Increasing Access alongside and to the Blue Ribbon Network  
4C.20 Design  
4C.21 Design Statement  
4C.24 Importance of the Thames  
4C.25 Thames Policy Area



## Government Planning Policy Guidance/Statements

PPG1	Generally Policy and Principles
PPS1	Delivering Sustainable Development
PPG4	Industrial and Commercial Development and Small Firms
PPS6	Planning for Town Centres
PPG13	Transport
PPS22	Renewable Energy
PPG24	Planning & Noise
PPS25	Flood Risk

**Community Plan** The following Community Plan objectives relate to the application:

- A better place for living safely
- A better place for living well
- A better place for creating and sharing prosperity
- A better place for learning, achievement and leisure
- A better place for excellent public services

## 6. CONSULTATION RESPONSE

6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

### LBTH Highways Development

#### 6.2 *Vehicle access*

- The visibility splay for the exit from the piazza level to Westferry Road lower level (fig 4.4 Transport Assessment) is inadequate. The speed of traffic approaching the lower roundabout, combined with the curving wall and large gradient difference results in vehicles pulling out of this junction being hidden from approaching vehicles. This exit is only acceptable if it is only used for emergency uses only. For this reason the exit needs to be barriered and controlled at the plaza level and all occurrences as to when the barrier is raised and lowered recorded and monitored.
- The car park entrance on the lower roundabout is acceptable providing the barrier is set back from the highway with sufficient space to allow for queuing vehicles.
- All other vehicle entrance and exit points are acceptable.

#### *Motorcycle facilities*

- The 132 spaces are considered to be acceptable.

#### *Cycle spaces*

- The comments regarding cycle spaces are not accepted, the LDF document calls for a minimum of 1112 spaces to be provided, the plans include only 345. This under provision is inadequate.

#### *Bus Facilities*

- The relocation of the bus stop at Westferry Circus could be acceptable. This is not a planning issue and must be agreed in consultation with Tower Hamlets and London Buses.

#### *Pedestrian Facilities.*

- The opening up of the site and permeability are considered to be acceptable. The riverside walkway and cycle route should be secured under a Section 106 Agreement to ensure continuous uninterrupted access.

### *Travel Plan*

- The initial travel plan details are acceptable, however full details will need to be supplied and a regular monitoring system in place. This should be included in the Section 106 Agreement for consideration and approval. The travel plan must be submitted and approved before occupation.

### *Servicing*

- A significant number of service vehicles would access the site throughout the day. The service yards are acceptable in size to deal with loading and unloading of this volume of traffic. There will need to be management of the service areas to ensure waiting and deliveries do not create delays on the surrounding highway network. A service management plan must be secured by a condition of approval prior to occupation.

### *Section 106*

- The site already has a section 106 from the previous application; we would require them to uplift this contribution to pay for additional highway works that would need to be included as a result of the redesign of the application.
- There are additional works that will need to be done these include two new pelican crossings to be installed (the cost of these to include a commuted sum payable for maintenance over 15 years) and the proposed pelican crossing on the upper level of Westferry Circus. Any uplift must be sufficient to cover these costs.
- The river walk way must be secured under a Section 106.
- The Westferry roundabout and parts of Westferry road must be adopted by the council. This agreement which is still yet to be signed must be signed prior to occupation.

### *Section 278*

- The frontage of this site will experience a number of alterations and works; this will require reinstatement of the pavement. This work should be protected by a section 278 agreement.

(OFFICER COMMENT: It is advised by Highways officers that the above issues can be dealt with through relevant conditions of approval and obligations of a Section 106 agreement.)

## **LBTH Strategic Transport**

- 6.3 The Council's Strategic Transport Team has identified a number of relevant initiatives to be supported by the scheme and funded through Section 106 contributions, including:
- The provision of a City Bike Club;
  - Further feasibility work for the Sustrans proposals to provide a cycle bridge over the Thames between Tower Hamlets and Southwark; and
  - Enhancements to local bus services, including the potential of an improved public transport interchange serving the site.

## **LBTH Environmental Health**

### 6.4 Air Quality

- A risk assessment of the construction phase must be conducted. Due regard must be given to the London Best Practice Guide. Once a score is obtained, a detailed Code of Construction Practice (CoCP) must be submitted detailing how the developer intends to mitigate for dust and emissions from the construction phase.
- Due to the proximity to sensitive receptors, it would be appropriate to seek Section 106 funding for air quality monitoring (PM10 and PM2.5 and dust depositional monitoring).
- The ES has not made mention of potential emissions from boiler plants. This should

be accounted for; and at some stage a D1 stack height calculation should be submitted by the applicant detailing the discharge point of the flue.

(OFFICER COMMENT: Following discussion with LBTH Air Quality Officer it is considered appropriate to secure air quality monitoring as a condition of approval.

#### Contaminated Land

No comment received.

#### Noise

No objections. The following information required:

- Design specifications of acoustic screens for cooling towers/air cooled chillers.
- Draft Construction Environmental Management Plan when it becomes available.
- The internal office working environment to be designed to meet the requirements of BS 8233:1999

#### **LBTH Energy Efficiency Unit**

6.5 No comment received.

#### **LBTH Education Development**

6.6 No comment.

#### **LBTH Access to Employment (Skillsmatch)**

6.7 The Council's Access to Employment Manager has confirmed that the Council would not seek to extend to lease of the Skills Match Building beyond that secured under the existing S106 agreement. The new agreement will therefore need to re-confirm the existing terms.

The Council's Head of Skills Match Service has confirmed that a contribution is required in terms of funding the Skills Match operation. This will enable local residents to gain access to employment during both the construction phase of the development and once the development is operational. In addition, further contributions are sought to improve access to wider employment opportunities within the Canary Wharf Estate for Borough Residents, through the Employment Task Group.

#### **LBTH Ideas Store**

6.8 The Head of Ideas Stores has confirmed that the Council would not seek to extend the lease of the Idea Store beyond that secured under the existing S106 agreement.

#### **LBTH Building Control**

6.9 Buildings and access should be designed in accordance with the Building Regulations. Fire Service access to the site and in particular to the fire fighting shafts should be in accordance with Approved Document B5 and/or BS5588 Part 5.

#### **LBTH Horticulture & Recreation**

6.10 The local LAP Director and Open Space Officers have confirmed that additional Officer workers from Canary Wharf will place pressure on what are already limited sports facilities within the Borough – in particular outdoor sports pitches. There may be opportunities to improve existing facilities at the Work House in Polar, Poplar Park and King Edward Memorial Park in Shadwell through Section 106.

## **LBTH Corporate Access Officer**

6.11 The following access issues are outlined below.

### Stair access to riverside walkway

- The positioning of the stair access to the riverside walkway creates a blind corner where people could loiter. The stair should be located adjacent to the wall to remove this space.
- A central handrail should be provided on the stair access.
- Several 'dead areas' are present which create poor orientation/permeability and encourage loitering.

### Lifts/ internal

- How do the lift accesses work within the buildings - are they accessible to persons with disabilities?
- In windy conditions the side doors adjacent to revolving will be difficult to open.
- The width of doors/gates, etc on ground level do not meet DDA requirements.
- Separate disabled toilet facilities within building required.

### Vehicle and Pedestrian Access

Vehicle access dominates the public realm and the width of the carriageway should be reduced. This should be treated as a shared surface for both vehicles and pedestrians providing access into the development. What is the proposed road surface? A champer curb should be used to ensure access for persons with disabilities.

(OFFICER COMMENT: Details of the above should be submitted prior to the commencement of the development).

## **English Heritage**

6.12 The proposals involve amendments to the scheme granted permission in 2005. The original scheme was one of three schemes for tall buildings within the area considered by our London Advisory Committee on 16 May 2003. The letter of 3 June 2003 noted that *'The Riverside proposals are considered to of a high architectural standard and to have a modest impact upon the historic environment. Nevertheless the forceful presence of new towers on the river's edge is of concern, as is the resulting impact on local and long distance views. The scheme also adds to the overall width of the growing cluster of towers when viewed from Greenwich Park'*. These comments hold true for the current revised proposal.

The letter also noted that *'the architect has acknowledged that further work needs to be done to improve the way in which the proposals address the ground and relate to Westferry Circus.'* Page 20 of the Design and Access Statement submitted with the current application notes however that *'The general siting and disposition of buildings, as well as their relationship to the river and Westferry Circus remain as the approved scheme'*.

## **English Heritage (Archaeology) (Statutory Consultee)**

6.13 Recommended condition to secure a programme of archaeological work.

## **Environment Agency (Statutory Consultee)**

6.14 The Environment Agency objects to the application on the following basis:

*Insufficient mitigation measures have been submitted. It has failed to adequately mitigate for the impacts of the development on the environment and to enhance the biodiversity value of the site in line with current policy. The mitigation proposed in the environmental statement would benefit the site but this has not been followed through in the remainder of the*

submitted plans and documents.

#### Resolution

- A number of mitigation measures have been included in the Environmental Statement, including brown roofs; the attachment of timber fenders to the river wall; native planting on the site; green walls and the introduction of bird boxes.
- The applicant has discussed building a new flood defence wall as part of the proposals as part of the development and as part of this, potentially setting back the existing wall by up to 1 metre. We strongly supported this option as it would generate new UK BAP mudflat habitat and also help to mitigate for the negative impact on the foreshore. However the setback option appears to not have been continued as part of the scheme.
- The use of timber fenders and enhancement through planting have not been addressed in the scheme. The documents do not include any information on the detail or location of the proposed timber fenders.
- The proposed soft landscaping is located to the rear of the site. The Environment Agency seeks to incorporate native vegetation adjacent to the river to enhance the river corridor for wildlife and to benefit the River Thames. The river wall and adjacent riverside is all part of the River Thames corridor with the river designated as a Site of Metropolitan Importance (SMI) by the London Ecology Unit (LEU).
- Figure 3.16 in Volume 2 of the ES shows two areas labelled as 'Potential areas for brown roofs'. The areas marked do not provide sufficient mitigation when the scale of the overall footprint is considered and the loss of brownfield habitat. The ES refers to the sighting of a black redstart on the site in February 2007 therefore the site has been used by the species. Currently only 800m<sup>2</sup> is proposed for brown roofs. The total Gross External Area (GEA) floor space is over 327,000m<sup>2</sup>. We feel that a development of this scale should provide an increased area of habitat.
- In addition to its small size, the area proposed for the brown roof will be flanked on either side by 190 metre and 240 metre buildings, which will affect the amount of light and heat the site receives. Wind speed travelling between the two buildings is also likely to be an issue. In order for this roof to be considered as an area for possible mitigation the applicant will have to demonstrate that it will be conducive to supporting black redstarts.
- There is no further provision for green walls or bird boxes in the scheme.

(OFFICER COMMENT: The Environment Agency have verbally withdrawn their objection and have recommended that the above be biodiversity matters be secured through a condition of approval requiring an ecological management plan for the site. This plan would be considered in consultation with the Environment Agency. Wording of this condition is to be confirmed in writing by the Environment Agency.)

#### **British Waterways**

6.15 No objections.

#### **Greater London Authority (Statutory Consultee)**

6.16 The revised scheme remains acceptable from a strategic planning perspective. The amendments do not result in any significant additional adverse environmental effects that were not addressed as part of the previous planning permission. The design refinements will result in more elegant and striking buildings and the inclusion of renewable energy technologies is particularly supported. However, Transport for London has a number of issues which need to be resolved before planning permission is granted.

(OFFICER COMMENT: These details are outlined and addressed in the material planning considerations section of this report.)

### **Corporation of London**

6.17 No objection

### **London City Airport**

6.18 No safeguarding objection subject to conditions:

- Prior to commencement details of the method of construction including the details of the use location and height of cranes and other plan and equipment or temporary structures shall be submitted and approved in writing by the LPA in consultation with the operator of London City Airport and the Civil Aviation Authority.
- When not in use the cranes are to be parked parallel to the runway centre line at London city airport.

### **Metropolitan Police**

6.19 No comment received

### **CABE**

6.20 No comment

### **Natural England (Statutory Consultee)**

6.21 No comment received.

### **BBC – Reception Advice**

6.22 No comment received.

### **Greenwich Society**

6.23 No comment received.

### **LB Greenwich**

6.24 No objections.

### **LB Southwark**

6.25 No objections.

### **Thames Water**

6.26 No comment received.

### **London Fire & Civil Defence Authority**

6.27 No comment received.

### **Port of London Authority**

6.28 No objection. Recommends:

- Condition requiring submission of external lighting details – to ensure minimal impact to navigation;
- Barges should be used to transport materials during construction;
- Informative regarding the river works licensing;

- If river wall repairs are to be consulted, please consult with the POL Authority;
- Condition requiring provision of riparian life saving equipment.

### **National Air Traffic Control Services**

6.29 No objections.

## **7. LOCAL REPRESENTATION**

7.1 A total of 996 neighbouring properties within the area shown on the map appended to this report were notified of the application and invited to comment. The application has also been publicised in East End Life and on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

Consultation (April 2007):

No of individual responses: 7	Objecting: 7	Supporting: 1
No of petitions received: 0		

7.2 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

### Objecting

#### *Public Park/Riverside Walkway*

The proposed public park location to the south of the site could cause disturbance to residents of the Cascades building. As such the public park should not be open 24 hours.

The Thames walk/path should be maintained and improved as part of the scheme. Hundreds of walkers, cyclists, etc, use this route on a daily basis. Pedestrian access along this path should be retained during construction. This has been achieved on nearby sites such as London Arena and Pan Peninsula developments.

#### *Retail/Active Frontages*

There is objection to the removal of retail element at ground level along the river and to the south of the site. The removal of the retail element and active frontages may lead to this area being blank and sterile with little activity.

#### *Access*

The pedestrian access to the east is awkward. As most people approach the building from either Canary Wharf tube station or Heron Quays DLR.

#### *Construction Impacts*

There should be strict controls over construction hours at the site given potential disturbance to surrounding residential properties.

The Cascades outdoor garden is subject to large amounts of dust and debris associated with the 22 Marsh Wall development. Any new works on the subject site will lead to an increase in this impact. A suggested solution would be for Canary Wharf to contribute towards the ongoing maintenance of Cascades paid for by residents through the service charge for cleaning, etc.

#### *Height & Views*

The increase in height to the towers goes against the policy of centring towers around one Canada Square. The proposal is out of context with surrounding development at Canary Wharf.

The proposal will block views and aspect to surrounding residential properties.

#### *Noise*

The proposal will lead to an increase in noise in the area.

#### Supporting

One letter of support was received. The letter states that there are no objections to the development of the site and the expansion of the area is welcomed.

## **8. MATERIAL PLANNING CONSIDERATIONS**

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

9. Policy Requirements
10. Tall Buildings
11. Design & Layout
12. Amenity
13. Sustainability & Renewable Energy
14. Transport
15. Biodiversity

### **Policy Requirements**

- 8.2 The principle of land use and development of the site has previously been accepted through the granting of the existing planning permission (PA/03/00377) on the 8<sup>th</sup> June 2005.
- 8.3 The site was previously used as a construction storage area. The existing planning permission (PA/03/00377) is currently being implemented and earthworks have commenced on the site.
- 8.4 The Isle of Dogs area, within which the site is located, is identified in the London Plan as an Opportunity Area within the East London Sub Region. Policy 5C.1 identifies indicative estimates of growth. Both the Isle of Dogs and Canary Wharf are known globally as an area which provides a focus for financial and business services. The number of jobs within the area has risen from 19,000 in the early 1990's to 57,000 in 2001. It is identified that in the future policy should seek to expand and consolidate this role. The area should aim to accommodate at least 150,000 jobs by 2016.
- 8.5 The site is identified on the proposals map of both the Unitary Development Plan and the Local Development Framework as being located within the Central Activities Zone. UDP Policy ST10, LDF policy CP8 and the Isle of Dogs Area Action plan recognise the need to further develop the key strategic and international role played by parts of the borough as a global and financial business centre. The policy identifies the northern parts of the Isle of Dogs as a leading global and financial centre involving large scale office development accommodating major corporate occupiers.
- 8.6 Specifically the subject site is allocated in the Isle of Dogs Area Action Plan as a location for Class B1 development with class A1- A5 floor space (Site allocation ID38). The Area Action Plan also seeks to promote employment uses which will support the development of a global financial and business centre at this location.
- 8.7 As previously stated the proposed land use is consistent with the scheme previously approved in June 2005. The scheme will incorporate 324,888 sq m of B1 office space,



suitable for accommodating a wide range of financial and business services. The proposed office space is likely to generate approximately 11,359 jobs. The proposed development thus accords with the policies of the London Plan and the borough in terms of promoting the site and the area as a global financial centre whilst also seeking to provide employment opportunities to meet the needs of local residents.

- 8.8 The GLA state in their Stage 1 report that:
- 8.9 *“The LDA supports the proposed development given the economic and employment benefits associated with such a significant volume of office space proposed, and the associated enhancement in the quality and flexibility of London’s office market offer. The proposed development would contribute to the Isle of Dogs globally competitive business cluster and help meet employment projections as set out in the London Plan. The proposed scheme also contributes to the Mayor’s vision as set out in the Economic Development Strategy.”*
- 8.10 The LDA also welcomes the inclusion of employment and training contributions (skillsmatch) which will seek to improve the skills and employment opportunities for local people.
- 8.11 The London Plan seeks to maintain and improve retail facilities (policy 3D.3) through the maintenance, management and enhancement of local and neighbourhood shopping facilities. Policy 3B.4 seeks mixed use development where increases in office floor space are proposed in Opportunity Areas.
- 8.12 The London Plan, the LDF and Area Action plan identifies the Isle of Dogs/Canary Wharf as a centre for the focus of retail and leisure uses in order to protect and enhance the major town centre status of the area.
- 8.13 The site is identified on the LDF proposal map as forming part of this town centre. The proposed development seeks to provide 2367m<sup>2</sup> of retail and leisure space, (Class A floor space). The proposed retail and leisure uses within the scheme will assist in providing services for future office workers at this location whilst also assisting in the formation of vibrant mixed use areas at this location.
- 8.14 It is noted that the quantum of retail floor space proposed is less than that approved under the previous consent for this site (5,904m<sup>2</sup>). The proposed retail units are located at the base of the RS2 tower, at promenade level and upper ground level. The approved scheme proposed retail at the ground floor of RS1 overlooking the park, however as part of the proposed development this has been removed following concerns raised by residents of Cascades to the south about potential noise nuisance associated with users of bars and restaurants. The consolidated location of this retail accommodation is considered to be consistent with existing bars and restaurants around Westferry Circus. The proposed location of the retail within the development also assist in the creation of an active river frontage, complementing nearby public open spaces and the riverside walk, as well as adding to the quality of the retail offer within Canary Wharf as a whole.

### **Tall Buildings**

- 8.15 The principle of the site as a location for tall buildings has been established by the approved scheme which comprised two towers of 218.7m (RS1) and 193.5m (RS2). As part of the proposed development the height of RS1 has increased to 241.14m whilst the height of RS2 has decreased to 191.34m, below the height of the smaller tower in the approved scheme. The height of the linking block, RS3 has increased from 51.5m to approximately 77.1m AOD.
- 8.16 Policy 4B.8 of the London Plan supports tall buildings in appropriate locations across London and states that the *‘Mayor will promote the development of tall buildings where they create attractive landmarks enhancing London’s character, help to provide a coherent location for*

*economic clusters of related activities and/or act as a catalyst for regeneration and where they are also acceptable in terms of design and impact on their surroundings.'*

- 8.17 The UDP considers tall buildings to be appropriate within the Central Activities Zone, provided proposals are sensitive to the bulk, scale and massing of the surrounding area. The ability of transport infrastructure to accommodate the level of activity generated should also be considered. The UDP states tall buildings should seek to emphasise a point of civic and visual significance, both locally and in relation to the urban scene or area from which it would be visible. This is particularly relevant to the Riverside South proposals given their prominent position in relation to both the River Thames and within the Canary Wharf Cluster.
- 8.18 Policy IOD1 of the AAP states that 'tall buildings will be clustered around Canary Wharf (1 Canada Square) and building heights should be reduced from this point.' Furthermore, Policy IOD16 states that the northern sub area will continue as a location for tall buildings and will form a cluster of the tallest buildings found on the Isle of Dogs. New tall buildings should help consolidate this cluster and provide new landmarks consistent with the national and international role and function of the area.
- 8.19 Policy DEV5 of the LBTH UDP states that tall buildings may be acceptable within the Central Area Zones subject to policies DEV1 and DEV2. The development will also:
- Not adversely impact upon the micro climate, wind turbulence, overshadowing and telecommunication interference;
  - Have access to appropriate transport and infrastructure;
  - Not adversely harm the essential character of the area or important views; and
  - Identify and emphasise a point of civic and visual significance
- 8.20 Policy CP48 'Tall Buildings' of the emerging Core Strategy states that the Council will, in principle, 'support the development of tall buildings in the northern part of the Isle of Dogs where they consolidate the existing tall building cluster at Canary Wharf'. Policy DEV27 of the emerging LDF Core Strategy and Policy 4B.9 of the London Plan, require tall buildings to be of the highest quality design and provide a set of criteria that applications for tall buildings must satisfy. The proposal satisfies the relevant criteria of Policy DEV27 as follows:
- The design is sensitive to the context of the site.
  - The architectural quality of the building is considered to be of a high design quality, as demonstrated in its scale, form, massing, footprint, proportion, materials, and relationship to other buildings, the street network, public and private spaces and the River Thames.
  - The proposed development does not fall within the strategic views designated in Regional Planning Guidance 3A (Strategic Guidance for London Planning Authorities, 1991) or the Mayor's draft London View Management Framework SPG (2005). However, the scheme has demonstrated consideration of the appearance of the building as viewed from all angles and is considered to provide a positive contribution to the skyline.
  - The proposed development would achieve a high standard of safety and security for future occupants and users.
  - The proposed buildings would be visually integrated into the streetscape and the surrounding area.
  - The proposed development would present a human scaled development at the street level.
  - The proposed development would respect the local character and seek to incorporate and reflect elements of local distinctiveness.
  - The proposed development would incorporate adaptable design measures.
  - There will be minimal impact on the privacy, amenity and access to sunlight and daylight to surrounding residents.
  - The Environmental Statement demonstrates that the impact on the microclimate of

the surrounding area, including the site and public spaces, will not be detrimental.

- The proposed development demonstrates consideration of sustainability throughout the lifetime of the development, including the achievement of a high standard of energy efficiency, sustainable design, construction and resource management.
- The impact on the biodiversity of the River Thames will be minimised through the provision of an Ecological Management Plan which will ensure that biodiversity on the site will be generally improved through the proposed scheme.
- The proposed development will scheme high internal and external noise standards.
- The scheme will contribute positively to the social and economic vitality and of the surrounding area at the street level through its proposed mix of uses.
- The proposal incorporates the principles of inclusive design.
- The site is located in an area with very good public transport access.
- The scheme takes into account the transport capacity of the area, and ensures the proposal will not have an adverse impact on transport infrastructure.
- The proposed development would result in improved permeability throughout the site and to the surrounding street network
- The proposed development would contribute to high quality pedestrian routes including the strategic cycle network.
- The scheme provides publicly accessible areas within the development including 24 hour access to a public park.
- The scheme would conform with Civil Aviation requirements. Both NATS and City Airport have advised there is no safeguarding objection.
- The scheme would not interfere, to an unacceptable degree, with telecommunication and radio transmission networks.
- The scheme has considered public safety requirements and has demonstrated emergency access provision.

8.21 The GLA Stage 1 report provides the following comment on the scheme:

*“The amendments do not result in any additional significant adverse environmental effects that were not addressed as part of the previous planning permission. The overall siting and design remains similar to the approved scheme, with two towers standing either side of the Jubilee Line tunnels and linked by a central podium. The design refinements will result in more elegant and striking buildings.”*

#### Important Views

- 8.22 Policy CON5 – Protection and Management of Important Views of the Emerging Core Strategy states that the Council will resist development that has an adverse impact on important views, including panoramas, prospects and local views.
- 8.23 The Riverside South location falls within an existing cluster of tall buildings. The site is neither within a Conservation Area nor close to listed buildings, other than the listed lock wall. The site is not within a Strategic Viewing Corridor and is not affected by the Draft London View Management Framework.
- 8.24 The principle of tall buildings on this site has been established by the approved scheme. The proposed development does not deviate from these established principles including the height, form and orientation of the towers and only makes relatively minor amendments to the overall heights.
- 8.25 The Impact of the increase in height is observed in number of views in the Townscape and Visual Impact Assessment. The principal consideration in terms of views relates to the additional storeys proposed in the revised scheme. The Scheme marks the western most edge of the Canary Wharf cluster and is considered an appropriate location for a building of this scale and design quality. It is considered that there is no immediate built context except

for the vast expanse of River Thames. In all distant views, the change in height appears to be marginal in nature. There are number of sites identified as suitable for a tall building between Riverside South and Central Canary Wharf and the proposal will seek to contain towers of intermediate height and consolidate an emerging cluster. London Borough of Tower Hamlets Urban Designer supports the scheme in terms of its architectural design and townscape merit.

## **Design & Layout**

- 8.26 Policy 4B.2 of the London Plan states that the Mayor seeks to promote world class design. Development proposals should demonstrate that developers have sought to provide buildings and spaces that are designed to be beautiful and enjoyable to visit, as well as being functional, safe, sustainable and accessible for all.
- 8.27 Policy 4C.20 seeks a high quality of design for all waterside development. All development, including intensive or tall buildings, should reflect local character, meet general principles of good design and improve the character of the built environment. Policy 4C.1 of the London Plan states that boroughs should recognise the strategic importance of the Blue Ribbon Network. Policy 4C.17 requires that boroughs protect, and improve access points to, alongside and over the Blue Ribbon Network.
- 8.28 In addition to London plan and tall building policies, the proposal also generally accords with the design and environmental Policies DEV1 and DEV2 of the 1998 UDP and Policy CP4 and DEV2 of the Local Development Framework which requires the bulk, height and density of development to positively relate to surrounding building plots and blocks, and the scale of development in the surrounding area.
- 8.29 Policy IOD1 of the Isle of Dogs AAP states that design will be managed by ensuring that development, considers, reflects and responds to the waterside location of the Island and contributes to making a unique location in the London context. The AAP further recognises that design has an important role in creating accessible, well connected, safe and secure environments that people can enjoy.
- 8.30 The design and layout of the proposed development is considered to be of high quality, reflecting the character of the surrounding context. The development will also result in the creation of a well connected public realm adding to the advancement of the area as a global financial business centre and a district centre thus assisting in the achievement of the objectives of policies within the London plan, the UDP, LDF and the Isle of Dogs AAP.
- 8.31 The site incorporates a Strategic Riverside Walkway, as designated by the UDP and emerging LDF document. This route is also part of the Sustrans route. The continuation and enhancement of the riverside walk from the existing waterfront at Riverside North will seek to ensure that continuation of this strategic route. The siting of retail units, intended to be predominantly Class A3 –A4 use, along the river frontage will allow the promotion of vibrancy as well as access to the river at this location. The retention of the riverside walkway thus meets the objectives of policies within the London plan, the UDP, LDF and the Isle of Dogs AAP and achieves the Mayors aspirations behind the creation of a Blue Ribbon Network along the River Thames.
- 8.32 As demonstrated in the Design and Access Statement and the indicative landscaping proposals the proposed development addresses the immediate demands of the space around the building and the wider urban context. The landscaping proposals seek to create an area of public realm that forms the riverside walkway and a public park at the southern portions of the site which will seek to provide an open space area for employees/residents and visitors whilst also acting as a buffer between the development and residential properties to the south. Further landscaping details including submission of details of lighting, signage

and treatments of these public areas would be secured through conditions of approval prior to the commencement of the development in order to ensure high quality, useable spaces.

### Materials

- 8.33 The architectural form and principal structure of the scheme has undergone refinement as a result of the revised scheme. The external appearance of the façade of the towers remains similar to that previously approved, subject to the addition of further louvers.
- 8.34 In order to achieve a high quality finish details of final finishes and cladding details would be required for as a condition of approval including the detailing of all external materials and a 'typical cladding detailed mock up'.

### Accessibility & Inclusive Environments

- 8.35 Policies 4B.1, 4B.4, 4B.5 of the London Plan seek to ensure that developments are accessible, usable and permeable for all users and that development can be used easily by as many people as possible without undue effort, separation or special treatment. Policy 3C.20 refers to the importance that connections from new developments to public transport facilities and the surrounding area (and its services) are accessible to all. Best practice guidance has been issued by the GLA (SPG Accessible London: achieving an inclusive environment, 2004).
- 8.36 Policies ST3 and DEV1 of the UDP require that development contributes to a safe, welcoming and attractive environment which is accessible to all groups of people. A growing awareness of the importance of creating environments that are accessible for all people has led the Council to emphasise the importance of 'inclusive design'. This is reflected in policies CP1, CP4, CP40, CP46 and DEV3 of the LDF Core Strategy submission document, which all seek to ensure that inclusive environments are created which can be safely, comfortably and easily accessed and used by as many people as possible without undue effort, separation or special treatment.
- 8.37 The proposed development has been designed in accordance with the principles of accessibility and inclusive design. The Access Statement has explored both access and egress issues, to and around the site as well as within the building itself. Consultation on accessibility throughout the design process has resulted in the inclusion of use by disabled people.
- 8.38 Options will continue to be considered throughout detailed design and beyond, to ensure the building is fully accessible. Further access assessment and consultation will be required throughout any future design progression.

### Safety & Security

- 8.39 Further UDP Policies DEV1 and 2 and Policy DEV 4 of the Local Development Framework seeks to ensure that safety and security within development and the surrounding public realm are optimised through good design and the promotion of inclusive environments.
- 8.40 The scale of the proposed development and the likely number of occupants generated at this location will result in a greater concentration of activity within this area. As a result of this very substantial site population and of the security policies of tenants, the site will result in enhanced surveillance. An associated lighting and CCTV scheme will ensure that the site, its immediate connections and neighbouring spaces and links will be continuously observed by people and monitoring systems.

## Amenity

### Assessing daylight and sunlight

- 8.41 Policy 4B.9 of the London Plan refers to the design and impact of large scale buildings and includes the requirement that in residential environments particular attention should be paid to privacy, amenity and overshadowing.
- 8.42 DEV 2 of the UDP seeks to ensure that the adjoining buildings are not adversely affected by a material deterioration of their daylighting and sunlighting conditions.
- 8.43 Policy DEV1 of the draft Core Strategy states that development is required to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm. The policy includes the requirement that development should not result in a material deterioration of the sunlighting and daylighting conditions of surrounding habitable rooms.
- 8.44 Daylight/Sunlight analysis is included as part of the Environmental Statement submitted with the application. The statement demonstrates that nearby buildings will not be adversely affected by the loss of privacy or material deterioration of daylighting and sun lighting conditions.
- 8.45 The Environmental Statement reports on the assessment of effects for sunlight and daylight and identifies minor adverse effects at six locations:
- Cascades
  - 1-9 Chandler Mews
  - 11-85 Anchorage Point
  - Berkley Tower
  - City Pride (public house)
  - Hanover House
- 8.46 A number of residents from within the cascades tower located immediately to the south of the site raised concerns in relation to sun and daylight impacts generated by the scheme. The potential impacts to the Cascades development have been addressed in the Environmental Statement.
- 8.47 The daylight assessments have shown that 143 (70%) of the 205 windows receive reductions in Vertical Sky Component (VSC) beyond the criteria suggested. These range between a 30 and 60% reduction. However the level of daylight remaining within all of the habitable rooms is sufficient to meet both the No Sky contour (NSC) and Average Daylight Factor (ADF) with the exception of one small porthole style kitchen window on each floor between the 1<sup>st</sup> and 20<sup>th</sup> floors. All of the living rooms would retain ADF values in excess of 5%.
- 8.48 No mitigation measures are recommended as adverse effects are of no more than minor significance.
- 8.49 Open spaces to the north of the site have been included within the assessment of overshadowing impacts as anything to the south will not be cast in shadow by the proposal.
- 8.50 There are three areas of open amenity space, located to the north of the site, which may receive some additional shadowing. These are: -
- Space in the centre of Westferry Circus roundabout;
  - Space to the north of Hanover House; and
  - Space to the south of Belgrave Court.

8.51 With the approved scheme in place, the centre of Westferry Circus roundabout and the space to the south of Belgrave Court, both receive no permanent shadow. The space to the north of Hanover House receives permanent overshadowing to 18.24% of its area. The BRE guidelines suggest that an open amenity space should not receive more than 40% permanent shadow and preferably no more than 25%. This is obviously easily complied with, with the approved scheme in place.

### Noise

8.52 The Environmental Statement investigates the effect of the development on the acoustic environment of the site and surrounding buildings. The main areas include road traffic, externally reflected sound, wind generated noise and noise emissions from building services plant. The results of the assessment show that noise as a result of traffic associated with the development would be of minor significance. No unusual effects are anticipated because of externally reflected sound or wind interactions with the facades.

### Microclimate

8.53 The impacts of microclimate are assessed through a combination of meteorological data, analysis of the surrounding area and wind tunnel analysis, which was considered to be an appropriate methodology for a development of this nature. A number of mitigation measures are recommended including,

- Canopy and vertical fins along south face of RS-1;
- Heavy tree planting and vertical screens in plaza area to south of RS-1;
- A Vertical screen at NW corner of RS-2 and vertical louvers at NW and NE pedestrian walkways just north of RS-2;
- Windy areas near Impounding Lock: Increased tree planting and plans for alternate Route;
- E-W passageway between RS-2 and RS-3: enclosed E-W passageway between RS-2 and RS-3.

The results show that the proposed amelioration measures are effective in improving wind conditions in the majority of locations on the site. This is considered to be satisfactory.

### Construction Impacts

8.54 A number of surrounding residents raised concerns in relation to amenity impacts during construction.

8.55 Works for the construction of the approved scheme have commenced. The construction programme for the proposed scheme will span approximately 52 months. A review has been undertaken of the potential environmental issues and adverse impacts associated with the construction works. In order to ensure that the construction works are managed and undertaken in accordance with best practice and statutory requirements a site specific Construction Environmental Management Plan, or CEMP, is being produced which would be agreed with the local authority.

8.56 The purpose of the CEMP is to identify potential adverse environmental issues, to specify measurable limits and targets, to detail the mitigation measures to be undertaken and the management tools and procedures required. The CEMP would cover all aspects of the construction activity, both on-site and those that may affect surrounding areas, for example the management of construction traffic. Other activities that may cause a nuisance to nearby residents and workers would be monitored.

### **Sustainability & Renewable Energy**

8.57 The London Plan energy policies 4A.7-4A.9 aim to reduce carbon emissions by requiring the

Incorporation of energy efficient design and technologies, and renewable energy technologies where feasible. Energy Efficiency is addressed in policy DEV6 which reiterates the Mayor's target of 10% of new developments' energy generated from renewable energy generated on site and a reduction of 20% of emissions. Policies DEV7, DEV8, DEV9 and DEV11 seek sustainable developments through water quality and conservation, sustainable Drainage, sustainable construction materials, air pollution and air quality.

### Energy

- 8.58 The applicant has reconsidered its approach to energy from its consented scheme, addressing both energy efficient design and sustainable supply technologies. The proposed office buildings will make use of passive design measures to increase energy efficiency. Use of daylighting will be maximised and specific efforts will be made to build an inclusive, safe and comfortable space. Energy will be conserved using a high-performance facade, zoning and independent controls and some of the site's energy demand will be met by localised energy generation. Renewable energy technologies, such as ground source cooling, photovoltaics and bio fuel boilers will also be incorporated into the building design.
- 8.59 The GLA have assessed the above energy proposals. The GLA considers that the proposed approach is consistent with the London Plan and should be secured by condition.

### Water Conservation

- 8.60 Water efficient appliances will be installed throughout the building, and materials will be sourced responsibly.

### Waste

- 8.61 A Waste Strategy has been prepared to address and recommend sustainable waste management practices and the environmental burden during construction activities is addressed by the Construction Environmental Management Plan.

### Air Quality

- 8.62 The development would result in changes to traffic flow characteristics on the local road network. Effects of the proposed development on local air quality based on traffic flow predictions have been assessed.
- 8.63 An assessment shows that the effects of the proposed development are likely to be of slight adverse significance. In order to mitigate these impacts a Construction Environmental Management Plan (CEMP) will be drafted setting out measures to be applied throughout the construction phase would apply to site.
- 8.64 During the operational phase, encouraging sustainable transport and reducing dependence on the private car would reduce the impact of the development in terms of both greenhouse gases and pollutants.

### **Transport**

- 8.65 Both the UDP and the Local Development Framework contain a number of policies which encourage the creation of a sustainable transport network which minimises the need for car travel, lorries and supports movements by walking, cycling and public transport. Through the emerging Core Strategy the Council seeks to focus high density development in areas of high public transport accessibility (CP41).
- 8.66 In accordance with Policy DEV17 the applicant has submitted a transport assessment which



demonstrates the impacts of the development upon the local transport network and details a number of appropriate mitigation measures.

### Strategic Transport

- 8.67 The site has a Public Transport Accessibility Level (PTAL) of 5 (very good). The Riverside South site is located adjacent to the transport hub of Canary Wharf and is served by the Underground (Jubilee Line – Stratford to Stanmore), the Docklands Light Rail (Bank/Tower Gateway to Lewisham/Royal Docks/Stratford) and a number of bus services (277, D3, D7 and D8) and is therefore in a highly sustainable location. The site is also adjacent to Canary Wharf Pier which is served by river transport.
- 8.68 It is intended that 97 per cent of employees are expected to travel to the site by public transport or other non car modes in peak periods. It is intended that the scheme will generate 21,720 one way employees and visitor trips per day, excluding service vehicles.
- 8.69 Transport for London (TfL) was consulted on the application as part of the GLA Stage 1 response. In principle TfL have no objections to this application provided the following issues are resolved satisfactorily.

*“TfL considers that the transport assessment makes inadequate assessment of the pedestrian environment. Some measures such as improved pedestrian crossings and the provision of a riverside walkway are welcomed. However, other matters such as details of pedestrian routes to public transport, cycle routes and key points of interest together with conflicts vehicle access routes should be provided. A pedestrian capacity study should be carried out as there is particular concern about footway widths in parts of Heron Quays where around 2000 walking trips are estimated between the station and the site. TfL would welcome further discussion about these matters.”*

*“Since the previous application TfL’s plans for the bus network in the vicinity of the development have progressed and that it is hoped that a new route 135 will be provided together with the extension of the existing route 330. These routes are required to meet existing capacity on the Westferry Road corridor. The transport assessment indicates that the development will have 320 inbound trips by bus in the morning peak. Assuming that this is split 50:50 by direction, this will generate the need for an additional 2.3 buses during this period. In order to accommodate this TfL requests a contribution towards increasing bus capacity of £300,000 per annum for three years, a total of £900,000. “*

*“The transport assessment assumes that the DLR three-car upgrade will provide the necessary capacity to accommodate the growth in trips associated with this development. It also assumes that passengers travelling in the Jubilee Line from the west would transfer from to the DLR in sufficient numbers to alleviate overcrowding. As with the previous permitted scheme TfL would therefore expect a contribution of £3 million towards DLR capacity enhancement works.”*

- 8.70 The applicant has no objection to providing a contribution of £900,000 to TfL towards the upgrade to bus services in the vicinity of the site and this should be included in the Heads of Terms. Similarly the applicant has no objection towards providing a contribution of £3,000,000 to DLR to facilitate capacity enhancement works.
- 8.71 In relation to the pedestrian capacity study it is recommended that this be secured through a planning condition. The study would be considered in consultation with TfL. TfL have not provided clarification on how any impacts (if identified) would be mitigated.

### Vehicle Access

- 8.72 The site is accessible by vehicles at two levels; the lower road level and the upper podium

level. The main vehicular access for taxis and visitors will be provided at the podium level direct from the Upper Level of Westferry Circus.

- 8.73 At the lower level roundabout of Westferry Circus, an access will be provided to the B1 basement car park. On Westferry Road, between Westferry Circus and Heron Quays Road, two accesses will be provided to the B2 and B3 basement car parks, motorcycle parking and the loading bays.
- 8.74 A secondary egress only vehicle route will be provided from the podium level of the development, down to Westferry Road, close to its junction with the lower level of Westferry Circus. This will only be opened in emergencies or during periods when the exit onto Westferry Circus Upper Level is blocked.
- 8.75 The vehicle access arrangements on the site have been assessed by Councils Highways Department as satisfactory. There is some concern over the safety of access from the podium level down to Westferry Circus as visibility would be poor for vehicles entering the network at this location. It is acknowledged that this access is noted for emergency vehicles only. In order to ensure improved vehicular safety at this location it is recommended that this emergency access be secured through conditions of approval.
- 8.76 In addition there was concern raised regarding the car park entrance at the lower level to Westferry Circus. It is recommended by highways that a detailed plan be submitted as a condition of approval to ensure that the barrier is setback from the highway in order to allow for sufficient space to allow for queuing vehicles.
- 8.77 The site would also accommodate a number of vehicle set down and pick up areas (adjacent to each building) as it is envisaged that some visitors to the site will travel by taxi or private vehicles. Delivery vehicles for both the office and retail elements of the development will use the loading docks, accessed from Westferry Road.
- 8.78 A vast majority of delivery and service vehicles are expected in the transport assessment to approach the site from the north and will be required to travel via the Heron Quays roundabout (u-turn) to access the loading docks. The drop-off facilities for each building are designed to accommodate occasional deliveries, but these are expected to be confined to small vans and couriers. It is recommended by Councils Highways Department that a service management plan be submitted as a condition of approval to ensure that servicing can adequately be accommodated on site to ensure minimal impact upon the road network and surrounding context.
- 8.79 Emergency vehicles will be able to travel around the perimeter of the site. The applicant has adequately demonstrated that emergency vehicles can make this movement.

### Parking

- 8.80 Emerging policy DEV19 states that Council will minimise on and off street parking for all developments. All parking is to be in compliance with the Parking Standards, and the emerging Core Strategy sets maximum parking standards for retail and employment generating uses. The emerging Core Strategy sets out the maximum car parking standards that varies by type of use. For large developments in areas with good public transport (i.e., PTAL scores between 4 and 6) minimal parking is sought. For retail units no car parking is sought.
- 8.81 The application proposes 150 car parking spaces at basement level. Overall, the car parking provisions are in accordance with the standards set out within the UDP and are at a level, which supports current Government guidance on encouraging trips by other means.
- 8.82 TfL supports the reduction in car parking over the previously approved scheme. However, it

should be adjusted so that disabled parking comprises 10% of total parking or 15 spaces. In addition given the projected taxi use, the development should provide for a formal taxi rank similar to those on the North Colonnade and South Colonnade in the Canary Wharf complex.

### Cycle Accessibility

- 8.83 Policy CP42 encourages pedestrian and cycle permeability in new developments. The Council will ensure that new developments have a high level of connectivity with the existing and proposed transport, and pedestrian network. Policy DEV16 further promotes sustainable transport use, requiring developers to provide secure cycle parking, and routes through development. More specifically Policy IOD2 of the emerging AAP states that all major destinations on the Isle of Dogs should be easily accessible for all and existing pedestrian and cycle links should be improved.
- 8.84 The Thames Path Cycleway runs along the riverside walk to the west and south of the site and forms part of the Sustrans national cycle network.
- 8.85 Both Council's Highways Department and TfL have assessed the cycle provision which includes the provision of 345 spaces. Cycle parking provision is significantly less than TfL's cycle parking standards as referred to in the London Plan (annexe 4 paragraph 37) and must be increased to 1,299 spaces for the office element and a minimum of 8 spaces, located at the entrance of the units, for the retail element. All cycle parking should be provided in accordance with the London Cycle Network design manual. In particular it should be covered and protected, as well as having security measures such as CCTV. The site is well served by existing cycle routes.

### **Biodiversity**

- 8.86 Policies ST8, DEV57 and DEV62 of the UDP and policies CP31 and CP33 of the LDF Core Strategy submission document set out requirements in line with international, national and regional policy. These seek to ensure the protection, conservation, enhancement and effective management of the borough's biodiversity.
- 8.87 In accordance with Policy 3D.12 of the London Plan 2004, the Council produced a Local Biodiversity Action Plan (LBAP) which sets out priorities for biodiversity protection and enhancement. The Species Action Plan for black redstart is also of significant importance.
- 8.88 Policy 4C3 of the London Plan focuses on the Blue Ribbon Network and the importance to protect and enhance the biodiversity of the network by designing new waterside developments in ways that increase habitat value
- 8.89 The site is located adjacent to the Thames which is identified as part of London's Blue Ribbon Network and a site of nature conservation importance.
- 8.90 In accordance with Policy DEV47 and DEV48 of the UDP (1998) the proposal will improve the aesthetic amenity of the site and the river environs whilst also allowing for improved pedestrian access linkages through the site to the riverside walkway and the River Thames.
- 8.91 The scheme will also provide some 800m<sup>2</sup> of brown roofs which will seek to provide habitat for bird and invertebrate species such as the black redstart. Brown roofs will also assist in increasing energy efficient and minimising water runoff volumes.
- 8.92 The design and layout of the scheme will also include a public park and areas of landscaping. Details of which are defined in the indicative landscape proposals provided. Appropriate planting within these areas (to be secured as a condition of approval) will also assist in the promotion of biodiversity on the site.

8.93 Biodiversity measures will be incorporated into the scheme through the submission of an Ecological Management Plan, which will detail provision of brown roofs, use of timber fenders to the river wall, bird boxes and native species, etc, in the use of landscaping. It is recommended that this be secured as an appropriate condition of approval. The wording of this condition will be agreed in consultation with the Environment Agency.

### **Environmental Impact Assessment**

8.94 The Council's consultants, Bureau Veritas undertook a review of the Environmental Statement. The review highlighted a number of areas where additional information or clarification should be provided.

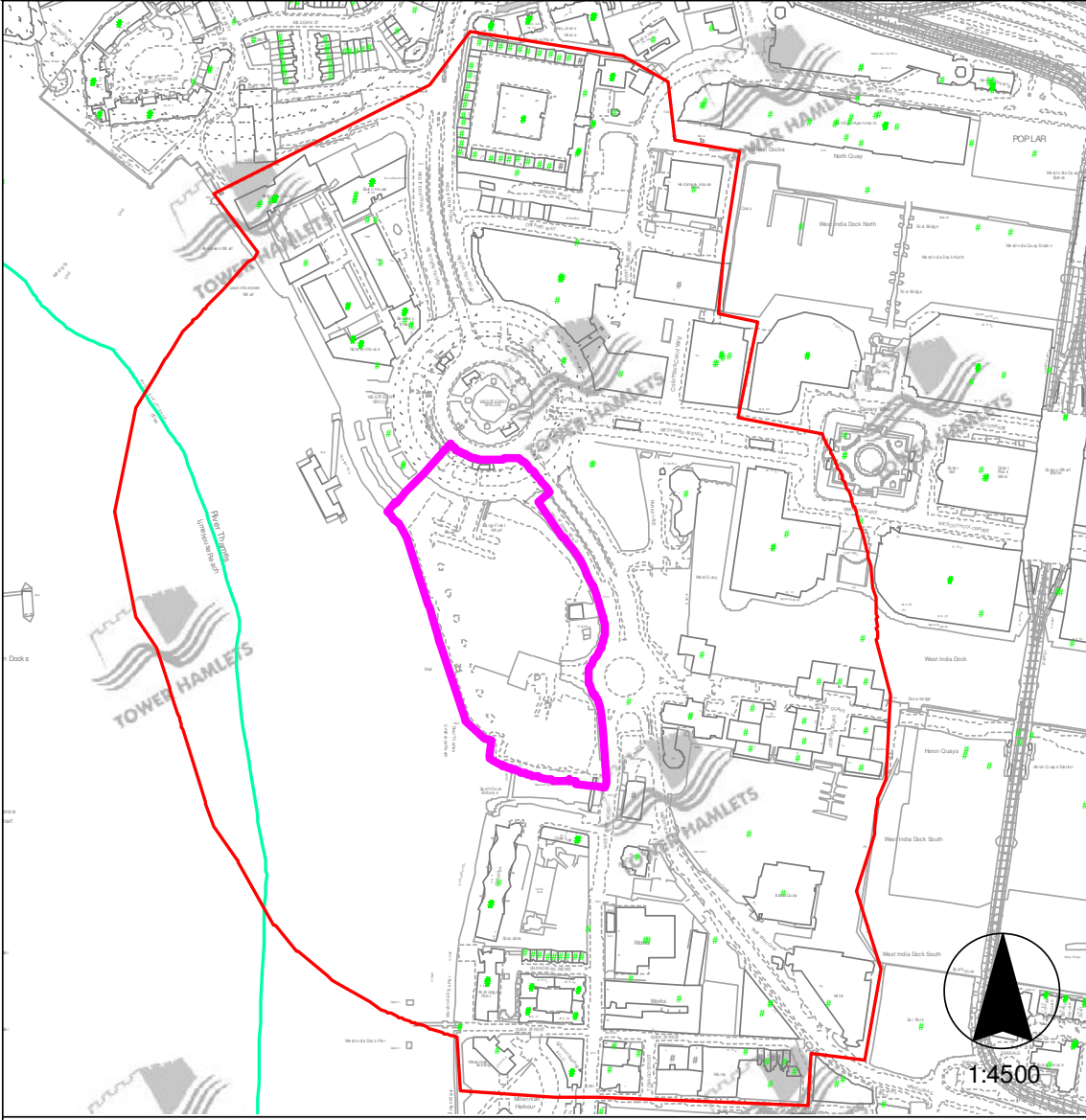
8.95 The ES was considered to provide a thorough assessment of the impacts and meets the requirements of the EIA Regulations. Further clarification was sought on a number of points via a Regulation 19 request. The applicant submitted further information to address these requirements.

8.96 The Environmental Statement has been assessed as satisfactory, with mitigation measures to be implemented through conditions and/ or Section 106 obligations.

### **9.0 CONCLUSIONS**

9.1 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

# Site Map



### Legend

- Planning Application Site Boundary
- Consultation Area
- Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office © Crown Copyright.  
London Borough of Tower Hamlets LA086568

**Strategic Development Committee Decisions on Planning Applications  
21 June 2007**

**EXTRACT FROM THE MINUTES OF THE STRATEGIC DEVELOPMENT COMMITTEE  
HELD AT 7.30 P.M. ON THURSDAY, 21 JUNE 2007**

**8.5 Site south of Westferry Circus and west of Westferry Road, London**

Mr Michael Kiely, Head of Development Decisions, introduced the site and proposal for the erection of Class B1 office buildings comprising two towers of 45 and 35 storeys with a lower central link building and Class A1, A2, A3, A4 and A5 uses (retail, financial/professional services, restaurant/ café, drinking establishments and hot food takeaway) at promenade level together with ancillary parking and servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art and other ancillary works at site south of Westferry Circus and west of Westferry Road, London.

Ms Renee Goodwin, Acting Applications Manager, presented a detailed report on the application and outlined the differences between the proposals and that which had been previously approved on the site.

Members asked questions relating the retention of public access on the riverside walkway, the impact of the heights of the buildings and its effect on daylight/sunlight. Members expressed a wish that the river be used for the transportation of refuse from the site and that the public walkways are available at all times.

The Committee RESOLVED that planning permission for the erection of Class B1 office buildings (324,888 sq. m) comprising two towers of 45 and 35 storeys (max 241.1m and 191.3m AOD) with a lower central link building (77.450m AOD) and Class A1, A2, A3, A4 and A5 uses (retail, financial/professional services, restaurant/ café, drinking establishments and hot food takeaway) at promenade level up to a maximum of 2367 sq.m together with ancillary parking and servicing, provision of access roads, riverside walkway, public open space, landscaping, including public art and other ancillary works. (total floor space 327,255 sq.m) at site south of Westferry Circus and west of Westferry Road, London be GRANTED subject to the following

A. Any direction by the Mayor;

B. The prior completion of a Legal Agreement to the satisfaction of the Chief Legal Officer, to secure the following:

1) Public Transport

Contribution towards DLR enhancement works - £3,000,000;

Contribution to TfL towards enhancements to the No. 135, 330 and the 330 bus services (£900,000 – paid in sums of £300,000 per annum);

2) Public Realm

Provision and maintenance of the new open space at the southern end of the site, the riverside walkway within the site and other areas of public realm within the site - £5,343,000;

3) Isle of Dogs Community Foundation

Contributions towards social and community facilities - £2,500,000;

4) Highways Works

Provision of pedestrian crossing to the north of Heron Quays Roundabout - £236,000;

Contribution towards upgrade of Heron Quays Roundabout - £607,000;

5) Lease of Skills Match / IDEA Store

16 years 6 month lease of the IDEA Store / 10 year lease of the Skills Match Unit at peppercorn rents - £5,312,000; and

6) Community and Social Infrastructure Provision – projects to be determined through strategy for each area - total of £4,545,000

- Employment, Skills and Training
- Sustainable Transport Initiatives
- Public Realm, Design and Open Space Improvements
- Sports facility improvements

7) Preparation of a Travel Plan Framework - to be completed prior to the commencement of the development. The Travel Plan will be subject to ongoing monitoring and review

8) Code of Construction Practice

9) TV and Radio Reception

That the Head of Development Decisions be delegated power to impose conditions and informatives on the planning permission to secure the following:

Conditions

1. Time limit;
2. Details of the following are required prior to the relevant stage of construction:
  - a) Samples of all external building materials including a 'typical cladding detail mock up';
  - b) Detailed design of all lower floor elevations, including shop fronts;
  - c) Details of hard soft landscaping, including walkways, design and layout of new park, tree planting scheme, street furniture, CCTV and all external lighting;
  - d) Public art;
  - h) Details of all boundary wall treatments including walls, fences, railings and gates;
3. Submission of details of external ventilation/extract ducts to A3, A4, A5 units;
4. Submission of details of high level/roof top plant and sound attenuation;
5. Submission of details of refuse/recycling proposals, including a waste management strategy;
6. Submission of details of disabled access (also to address the matters raised in the Councils letter of the 15<sup>th</sup> May 2007 in regards to accessibility);
7. Submission of details of the location of a proposed taxi rank;
8. Submission of details of the location of suitable riparian life saving equipment along the riverside walkway;
9. Submission of details of external lighting to be used during construction and on completion of the development to be considered in consultation with the Port of London Authority;
10. River Barges must be used where feasible for the transport of materials to/from the site in both construction and on completion of the development. A strategy must be submitted detailing the use of barges to be considered in consultation with the Port of London Authority;
11. Submission of a landscape Management Plan;
12. Planting, seeding, turfing;
13. Detailed scheme for the ecological enhancement of the river wall.
14. Ecological management plan detailing all ecological enhancement works for the site.
15. Details of the riverside walk.
16. Methods for the reconstruction of the river wall and basement construction, the use of barges, the storage of materials, the tracking of machinery and construction uses within 5 metres of the river wall. There will be no fires or dumping within this 5 metre zone.
17. A landscape management plan.
18. No development approved by this permission shall be commenced until a planting scheme has been approved by the Local Planning Authority.
19. No development approved by this permission shall be commenced until a scheme for 'brown roofs', has been submitted.



20. The construction of the foul and surface water drainage system shall be carried out in accordance with details submitted to and approved.
21. Surface water source control measures.
22. Scheme for the provision and implementation of surface water run-off limitation, by means of a sustainable drainage system.
23. Detailed site investigation shall be carried out to establish if the site is present, and to determine its potential for the pollution of the water environment.
24. The construction of the site foundations shall be carried out in accordance with details submitted and approved.
25. Submit a scheme for approval by the Local Planning Authority detailing water efficiency measures along with rainwater harvesting and grey water reuse.
26. Completion of the restaurant/retail units prior to occupation of any other part of the Development.
27. Submission of details of the method of construction including details of use location and height of cranes and other structures to be considered in consultation with London City Airport;
28. When not in use cranes are to be parked parallel to the runway centre line with London City Airport;
29. Buildings must be equipped with aircraft obstacle lighting.
30. Submission of design specifications of acoustic screens for cooling towers/air cooled chillers;
31. Submission of a Construction Environmental Management Plan (EMP) setting out measures to be applied during the construction phase, relating to site planning, construction vehicles, demolition and construction activities on the site;
32. The following parking spaces are to be provided:
  - A maximum of 150 car parking spaces of which 10% must be allocated for disabled users.
  - A minimum of 1300 cycle spaces for the office element and a minimum of 8 spaces located at the entrance for the retail element.
  - 132 motorcycle spaces.
33. Restriction of access from podium level down to Westferry Circus to Emergency Vehicles only.
34. Submission of a detailed plan to ensure that the barrier to the basement access is setback from the highway in order to allow for sufficient space to allow for queuing vehicles.
35. Submission of a service management plan detailing a servicing scheme for deliveries and servicing throughout the site;
36. Limit hours of construction to between 8.00 Hours to 18.00 Hours, Monday to Friday and 8.00 Hours to 13.00 Hours on Saturdays.
37. Air Quality Monitoring;
38. Level of noise emitted from the site to be restricted.
39. Ground borne vibration limits.
40. Limit hours of power/hammer driven piling/breaking out to between 10.00 Hours to 16.00 Hours, Monday to Friday.
41. Details of a monitoring and control regime of the Environmental Management Plan.
42. Investigation and remediation measures for land contamination (including water pollution potential).
43. Details of the construction of the site foundations.
44. Details of surface and foul water drainage system required.
45. Impact study of water supply infrastructure required.
46. Details of Water Efficiency measures.
47. Renewable energy measures to be approved in writing by the Local Planning Authority in consultation with the Greater London Authority and implemented in perpetuity.
48. Implementation of a programme of archaeological work in accordance with the written scheme of investigation.
49. S278 to be entered into for highway works surrounding the site.
50. Requirement for a pedestrian capacity study. To be considered in consultation with Transport for London.
51. Any other condition(s) considered necessary by the Head of Development Decisions.

Informatives:

1. Section 106 agreement required;
2. Section 278 (Highways) agreement required;
3. River works licensing (Port of London Authority);
4. Riparian lifesaving equipment provided to the 1991 Hayes Report Standards (Port of London Authority);
5. Site notice specifying the details of the contractor required
6. Construction Environmental Management Plan Advice
7. Use of Thames to transport bulky materials
8. London City Airport Advice
9. All cycle parking is to be provided in accordance with the London Cycle Network Manual.
10. Environmental Health Department Advice
11. Advertising signs and/or hoardings consent
12. Contact the GLA regarding the energy proposals
13. Any other informative(s) considered necessary by the Head of Development Decisions

That if by the 21<sup>st</sup> September 2007 the legal agreement has not been completed to the satisfaction of the Chief Legal Officer; the Head of Development Decisions be delegated power to refuse planning permission.

(The Chair left the room after consideration of this item, at 9.50 pm, and did not return for the duration of the meeting.)

The meeting ended at 10.40 p.m.

Chair, Councillor Rofique U Ahmed  
Strategic Development Committee

# Agenda Item 7.2

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 7.2
<b>Report</b> Corporate Director of Development and Renewal	<b>of:</b>	<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Ila Robertson		<b>Ref No:</b> PA/07/01201	
		<b>Ward(s):</b> Whitechapel	

## 1. APPLICATION DETAILS

**Location:** Site At 61-75 Alie Street And 17-19 Plough Street And 20 Buckle Street, Alie Street, London, E1

**Existing Use:** Warehouse

**Proposal:** Demolition of existing buildings and erection of two buildings of 7 and 28 storeys in height to provide 235 residential units, A1/A3 (retail/restaurant/cafe) floor space and B1(business), formation of associated car and cycle parking and highway access, hard and soft landscaping and other works associated to the redevelopment of the site.

The application includes the submission of an Environmental Statement under the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.

**Drawing No's:**

Plan No's:

PL07\_001, PL07\_002, PL07\_003, PL07\_004, PL07\_005, PL07\_090, PL07\_098A, PL07\_099A, PL07\_100A, PL07\_101A, PL07\_102A, PL07\_104A, PL07\_105A, PL07\_107A, PL07\_108A, PL07\_109A, PL07\_124A, PL07\_125A, PL07\_126A, PL07\_127A, PL07\_128A, PL07\_200, PL07\_201, PL07\_202, PL07\_203, PL07\_204, PL07\_205A, PL07\_206A, PL07\_207, PL07\_208A, PL07\_300A, PL07\_301, PL07\_302A, PL07\_303A, PL07\_304A, PL07\_305

Documents:

Design and Access Statement – Hamiltons, April 2007

Planning Statement - Barton Willmore, April 2007

Environmental Statement – Non Technical Study – April 2007

Environmental Statement – Volume I, April 2007

Environmental Statement – Volume II – Townscape, Conservation and Visual Assessment, April 2007

Townscape Views, Cumulative Impact Study – Miller Hare, June 2007

Visual Impact Study – Miller Hare, 12<sup>th</sup> July 2007

Transport Assessment – URS, April 2007

Pedestrian Environment Study – Hamiltons, June 2007

Office Market Report

Energy Statement – Roger Preston Environmental, April 2007

Internal Day and Sunlight Report – Gordon Ingram and Associates, 27<sup>th</sup> June 2007

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### LOCAL GOVERNMENT ACT 2000 (Section 97) LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT

Brief Description of background papers:      Tick if copy supplied for register

Name and telephone no. of holder:

Application, plans, adopted UDP. draft  
LDF and London Plan

Eileen McGrath  
020 7364 5321

Internal Sun and Daylight Report – Gordon Ingram and Associates, 6<sup>th</sup> July 2007

Internal Day and Sunlight Report – Gordon Ingram and Associates, 27<sup>th</sup> July 2007

**Applicant:** Inonder Limited  
**Owner:** Inonder Ltd, Tower Hamlets Council  
**Historic Building:** N/A  
**Conservation Area:** N/A

## 2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The Local Planning Authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan, associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that:

(1) The proposal is in line with the Mayor and Council's policy, as well as government guidance which seek to maximise the development potential of sites. As such, the development complies with policy 4B.3 of the London Plan and HSG1 of the Council's Interim Planning Guidance (October 2007) which seeks to ensure this.

(2) The ratio of residential to office space is considered acceptable given the need for housing in the borough especially on sites with excellent connections and services. The applicant has provided evidence to confirm that there is sufficient office space within the vicinity and that an office-led scheme would not be sufficiently viable to proceed with development of this site. As such the development complies with policy 3A.1, 3C.1 and 4B.3 of the London Plan and policy HSG1 of the Council's Interim Planning Guidance (October 2007) which seek to increase housing provision especially within highly accessible locations.

(3) The proposal provides an acceptable amount of affordable housing and mix of units overall. As such, the proposal is in line with policies 3A.4, 3A.7 and 3A.8 of the London Plan, policies HSG3 and HSG7 of the Council's Unitary Development Plan 1998 and policies CP22, HSG2 and HSG3 of the Council's Interim Planning Guidance (October 2007), which seek to ensure that new developments offer a range of housing choices.

(4) The principle of a tall building is considered acceptable with it forming part of the cluster of tall buildings emerging around the Aldgate Union site. It is considered to be in accordance with policies 4B.8 and 4B.9 of the London Plan, policies DEV1, and DEV2 of the Council's Unitary Development Plan 1998 and policies DEV1, DEV2 and DEV 27 of the Council's Interim Planning Guidance (October 2007), which seek to ensure tall buildings are of a high quality design and suitably located.

(5) The design of the building is considered acceptable and will make a positive contribution to the site and immediate area, with the design, height, massing and footprint of the building responding positively to the typology of the area. In terms of the adjacent listed buildings, these buildings are already compromised by existing buildings to the north and do not form part of a consistent street scene. The proposed tower is set back from these buildings and the podium level respects the building frontages. As such, the proposal is in general accordance with the policies 4B.1 and 4B.2 of the London Plan, DEV1 and DEV2 of the Council's Unitary Development Plan 1998 and policies DEV2 and CON1 of the Interim Planning Guidance (October 2007) which seek to ensure the design of development is of high quality, suitably located and responds to the existing character of an area.

(6) The development is not considered to adversely affect the amenity of any neighbouring residential properties in terms of a loss of privacy, increased sense of enclosure and provision of daylight and sunlight. It is considered to be in accordance with policies DEV2 of the Council's Unitary Development Plan 1998 and policies DEV1 of the Interim Planning

Guidance (October 2007) which seek to ensure the amenity of adjoining residential properties is protected and maintained.

(7) Transport matters, including parking, access and servicing is acceptable and in line with policies T16 of the Council's Unitary Development Plan 1998 and policies DEV17, DEV18 and DEV19 of the Council's Interim Planning Guidance (October 2007), which seek to ensure developments can be supported within the existing transport infrastructure and will not affect the safe operation of the highways.

### 3. RECOMMENDATION

3.1 That the Committee resolve to **GRANT** planning permission subject to:

A. Any **direction** by **The Mayor**

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

- a) A proportion of 35% on a gross floor space basis of the proposed units to be provided as affordable housing with the socially rented mix as specified in the table attached in Section 8.15.
- b) Provide **£40,000** towards general improvements to pedestrian and cycle routes in the immediate area including crossings and new paving surfaces.
- c) Provide **£914,469** towards the works associated with the Aldgate Gyratory including provision of open space on Braham Street.
- d) Provide **£357,918** towards education to mitigate the demand of the additional population on education facilities.
- e) Provide **£500,000** towards medical facilities to mitigate the demand of the additional population on medical facilities.
- f) Provide **£257,104.60** towards access to local employment initiatives.
- g) Provide **£100,000** towards the Aldgate Public Art and Culture Trail as identified in the Draft Aldgate Masterplan.
- h) A commitment to maximise the employment of local residents.
- i) Preparation of a Workplace Travel Plan (including welcome pack for residents).
- j) Preparation of a Service and Delivery Plan.
- k) TV Reception monitoring and mitigation.
- l) Completion of a car free agreement to restrict occupants applying for residential parking permits.

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

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

#### **Conditions:**

- 1) Time limit for Full Planning Permission
- 2) Details of the following are required:
  - Elevational treatment including samples of materials for external fascia of building;
  - The design of the lower floor elevations of commercial units including shopfronts
  - External lighting and security measures
- 3) Landscape plan for amenity courtyards and ground floor public realm improvements and with Management Plan.
- 4) 278 agreement to be entered into for Highway works surrounding the site
- 5) Parking maximum cars and minimum cycle and motorcycle spaces
- 6) Hours of construction limits (0800 – 1800, Mon-Fri: 0800 – 1300 Sat)

- 7) Piling hours of operation limits (10am – 4pm)
- 8) Details of insulation of the ventilation system and any associated plant required
- 9) Wheel cleaning facility during construction
- 10) Details of the energy Scheme to meet 10% renewables
- 11) Land contamination study required to be undertaken with remediation certificate
- 12) Details of surface water control measures as required by the Environment Agency
- 13) Details of sustainable drainage measures as required by the Environment Agency
- 14) Details of Piling Foundations as required by the Environment Agency
- 15) Details of foul and surface drainage system as required by the Environment Agency
- 16) Archaeology as required by English Heritage
- 17) Details of the waste and recycling facilities
- 18) Construction Management Plan required
- 19) Bat survey completed
- 20) Black redstart habitat provision required
- 21) Details of inclusive design through the scheme
- 22) Construction noise limits
- 23) Construction vibration limits
- 24) Parking, loading and serving areas to be used solely for these purposes.
- 25) Crane Heights as required by London City Airports
- 26) Details of Green Roofs

### **Informatives**

- 1) Consult the Environment Agency in terms of conditions 12-13
- 2) Site notice specifying the details of the contractor required
- 3) Building Regulations in terms of means of escape

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

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

### **Proposal**

- 4.1 An Application has been made for full planning permission to redevelop land at 61-75 Alie Street and 15-17 Plough Street by demolition of the existing buildings on the site and erection of a multi storey residential led development with retail units at ground level. The development is proposed to incorporate 235 residential units, with 36 car parking spaces and 250 cycle spaces with 242 at basement level and 8 at street level
- 4.2 The main building would comprise a 28 storey tower (93.80 metres high) which would be located centrally within the site. The building comprises a podium rising 4 storeys along Alie Street rising to 8 storeys to the rear (fronting Buckle Street) plus 7 storeys adjacent to the junction with Plough and Buckle Streets. The smaller building located to the eastern portion of the site adjacent to Alie Street would have a height of ground plus 7 storeys and will incorporate 1156.5 m<sup>2</sup> of office (B1) floorspace. The retail provision located within the ground floor of the buildings will have an area of 717.5m<sup>2</sup>.
- 4.3 It is proposed to provide ground level public open space between the buildings which will seek to provide a pedestrian link between Alie Street and Buckle Street to the north of the site. The open space area will feature a water wall, hard and soft landscaping.

### **Site and Surroundings**

- 4.4 The application site comprises land at 61- 75 Alie Street and 15-17 Buckle Street, London E1. The site is located on the north side of Alie Street and bounded by Alie Street to the

south, Buckle Street to the north and Plough Street to the west. The site has an overall area of 0.194 hectares. The site is currently occupied by two warehouse buildings. The buildings on the site have a height of 4-5 storeys and date from the early-mid 20th century. One floor in the building is presently used for storage. However, a majority of the building is vacant.

#### 4.5 Surrounding Area

The site lies within a triangular block bounded by Braham Street, Commercial Road, Leman Street, Alie Street and Goodman's Stile. The buildings within the block comprise a mixture of uses including offices, retail, warehousing, residential, a chapel and a multi storey car park. Alie Street is a two way street linking Mansell Street to the west and Commercial Road to the east. Buckle Street to the rear of the site is a cul de sac providing rear access to the buildings on the perimeter of the block, as well as the office at 21-23 Buckle Street and to the multi storey car park.

- 4.6 To the north of the site is a multi storey car park. Further north is a sports centre fronting Braham Street, the Sir John Cass School of Art and Science and a Fire station fronting Commercial Road. The north eastern boundary of the site abuts the rear of properties on Commercial Road. These properties feature retail uses at ground floor level, with some residential use above. No 32-34 Commercial Road is a grade 2 listed residential building comprising a number of flats sited around a courtyard.
- 4.7 To the south of the site, on the opposite side of Alie Street, is a large office development which comprises buildings of 4 to 7 storeys in height. The site is currently occupied by the Royal Bank of Scotland. Directly to the south west of the site are three listed buildings. These include 19a Leman Street, a two storey stucco building which was formerly used as the East London Dispensary, The St Georges German and Lutheran Church and the St Georges German and English Schools. Also adjoining the site to the north west is 21-23 Buckle Street, a four storey modern office building.
- 4.8 To the east is a mixed development including a public house, office, residential and commercial fronting Commercial Road. A listed building is located at No 32-34 Commercial Road. There are further listed buildings to the east of the site at 32-34 and 46-50 Commercial Road.
- 4.9 Further west, on the opposite side of Prescott Street, is further office and residential development. The site does not lie within a conservation area. The Fournier Street and Brick Lane, Myrdle Street and Whitechapel High Street conservation areas lie to the north of the site.
- 4.10 The site is well located in terms of public transport. The site has a PTAL (Public Transport Accessibility Level) of 6a which is the second highest level. Underground stations in proximity to the site include Aldgate, Aldgate East and Whitechapel. Tower Hill Underground Station, Tower Gateway DLR station and Fenchurch Street National Rail station are also located to the south, within walking distance of the site. A number of bus services also operate throughout the area.
- 4.11 The Tower of London World Heritage Site is located approximately 0.7km to the south west of the site.
- 4.12 A number of recently approved developments within the area include:
- Permission was granted 14<sup>th</sup> August 2007 for the Aldgate Union (102.50 metres high) – office development for over 200,000 square metres of office floor space, the removal of Aldgate Gyratory and the creation of a new park on Braham St
  - Permission was granted in 2004 to develop the Marsh Centre (93 metres high) to the north of the site for office and retail accommodation.

## Planning History

4.13 The planning history of the subject site is detailed as follows:-

### Permissions:

- On the 17<sup>th</sup> May 2000 planning permission PA/99/1338 was issued to extend the existing building on the site to form a mixed use development with associated car parking.
- On the 1<sup>st</sup> November 2001 planning permission PA/01/503 was for demolition and construction of an 8 storey building to form a hotel.
- On the 8<sup>th</sup> December 2006 planning permission PA/06/00219 for the demolition of existing buildings and erection of two buildings of 7 and 25 storeys to provide 287 residential units and A1/A3 (retail/restaurant/cafe) floor space, formation of associated car parking and highway access, hard and soft landscaping and other works associated with the redevelopment of the site was withdrawn after concerns were raised regarding the design of the proposed building.

### Other:

- On the 6<sup>th</sup> August 1999 planning application PA/99/338 to extend the existing building on the site to form a mixed use development including residential, A3 and B1 uses and associated car parking was withdrawn.
- On the 5<sup>th</sup> May 2004 planning application PA/03/346 to construct a 5-16 storey building to form a hotel and serviced apartments on the site was withdrawn.
- On the 18<sup>th</sup> April 2005 planning application PA/04/191 for a 5-24 storey building to form a hotel was withdrawn.
- Planning application PA/06/107 requesting a waiver of Condition 1 (car parking) of planning permission PA/99/1338. This application is currently invalid.

## 5. POLICY FRAMEWORK

5.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Decision” agenda items. The following policies are relevant to the application:

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

Proposals:	Central Area Zone
	Archaeology Importance or Potential
Policies:	DEV1 Design Requirements
	DEV2 Environmental Requirements
	DEV3 Mixed Use Developments
	DEV4 Planning Obligations
	DEV8 Protection of Local Views
	DEV12 Provision Of Landscaping in Development
	DEV17 Street Furniture
	DEV43 Protection of Archaeological Heritage
	DEV50 Noise
	DEV51 Contaminated Soil
	DEV55 Development and Waste Disposal
	CAZ1 Location of Central London Core Activities
	EMP1 Promoting economic growth and employment opportunities
	HSG7 Dwelling Mix and Type
	HSG13 Internal Space Standards
	HSG15 Development Affecting Residential Amenity
	HSG16 Amenity Space
	T16 Traffic Priorities for New Development
	T18 Pedestrians and the Road Network
	T21 Pedestrians Needs in New Development



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

Proposals:	CF12d	Alie Street: Preferred Uses - Employment Archaeological Priority Area Central Activities Zone
Core Strategies:	CP9	Employment space for small businesses
	CP11	Sites in employment use
	CP20	Sustainable residential density
	CP21	Dwelling Mix and Type
	CP22	Affordable Housing
	CP41	Integrating development with transport
Policies:	DEV1	Amenity
	DEV2	Character and design
	DEV3	Accessibility and inclusive design
	DEV4	Safety and security
	DEV5	Sustainable design
	DEV6	Energy efficiency
	DEV7	Water Quality and Conservation
	DEV8	Sustainable Drainage
	DEV9	Sustainable Construction Materials
	DEV10	Disturbance from Noise Pollution
	DEV11	Air Pollution and Air Quality
	DEV12	Management of demolition and construction
	DEV15	Waste and Recyclables Storage
	DEV16	Walking and Cycling Routes and Facilities
	DEV17	Transport assessments
	DEV18	Travel Plans
	DEV19	Parking for Motor Vehicles
	DEV20	Capacity of Utility Infrastructure
	DEV22	Contaminated Land
	DEV27	Tall Buildings Assessment
	EE2	Redevelopment/change of use of employment sites
	RT3	Shopping Provision outside of Town Centres
	HSG1	Determining Housing Density
	HSG2	Housing Mix
	HSG3	Affordable Housing
	HSG4	Ratio of Social Rent to Intermediate Housing
	HSG7	Housing Amenity Space
	HSG9	Accessible and Adaptable Homes
	HSG10	Calculating Affordable Housing
	CON1	Listed Buildings
	CON5	Protection and Management of Important Views

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

Residential Space Standards  
Archaeology and Development

### **Spatial Development Strategy for Greater London (London Plan) 2004**

Polices	2A.1	Sustainability Criteria
	3A.1	Increasing London's Supply of Housing
	3A.2	Borough Housing Targets
	3A.4	Housing Choice
	3A.7	Affordable Housing Targets
	3C.1	Integrating Transport and Development
	4A.7	Energy Efficiency and Renewable Energy
	4A.8	Energy Assessment
	4B.1	Design Principles for a Compact City

4B.2	Promoting World Class Architecture and Design
4B.3	Maximising the Potential of Sites
4B.5	Creating an Inclusive Environment
4B.6	Sustainable Design and Construction
4B.8	Tall Buildings
4B.9	Large Scale Buildings
4B.17	Assessing Development Impact on Designated Views
5C.2	Opportunity Areas

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

PPS1	Delivering Sustainable Development
PPS3	Housing
PPS22	Renewable Energy
PPG15	Planning and the Historic Environment
PPG16	Archaeology and Planning

**Community Plan** The following Community Plan objectives relate to the application:

- A better place for living safely
- A better place for living well
- A better place for creating and sharing prosperity

## **6. CONSULTATION RESPONSE**

- 6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

### **LBTH Highways**

- 6.2 The proposed development proposes 36 on-site parking spaces, the applicant has not justified this level of parking.

**(OFFICER COMMENT: The level of car parking proposed on the site complies with both the maximum requirements of the London Plan and LBTH Policy).**

The TA does not identify or evaluate the existing congestion/capacity levels on the road network but rather the percentage traffic impact being negligible relative to the overall volume of traffic on the road network.

The proposed development extends over the eastern section of Buckle Street which is public highway. Clarification is therefore required with regard to its impact on the adjacent properties. This is required before consideration of stopping up orders can take place.

Clarification is required with regard to how the site will be serviced. All servicing should be from within the sites curtilage and all vehicles must be able to enter and exit in forward from the site.

The applicant may want to consider dedicating the strips of land between the back of the footway of Alie Street and the developments building line to LBTH for adoption. This would improve and ensure maintenance of the frontage is practical, accessible and clarifies the boundary and makes the footway uniform in width

The applicant will be liable for any improvements/upgrades to the adjacent to the site including footways, pedestrian crossing facilities, traffic calming features etc, and consequently commuted maintenance payments. This will require the applicant to enter into a s278 agreement with LBTH.

**(OFFICER COMMENT: The above highways issues can be addressed through relevant S106 contributions towards highway works, Aldgate Gyratory improvements and S278 works.)**

### **LBTH Education**

- 6.3 Based on the dwelling mix a need for a contribution towards the provision of 29 additional primary school places @ £12,342 results in a contribution of £357,918.

### **LBTH Environmental Health**

- 6.4 The Environmental Impact Assessment was considered to be satisfactory. The following observations are made and conditions are required to ensure that the environmental health impacts of the proposal are minimised:
- Food premises are to be registered with Environmental Health;
  - Site contamination mitigation measures are required including redemption strategy;
  - Need for a Section 61 consent for noise abatement although it is recognised that works has already begun on site in response to the previous approval;
  - Restriction on hours of work;
  - Ventilation provision for kitchen/bathroom areas;
  - Hours of delivery to be restricted;
  - A code of construction practice detailing how the applicant intends to mitigate for dust and emissions from the construction site. Due regard must be given to the London Best Practice Guide; and
  - A fleet management plan must be submitted detailing vehicle emissions standards and fleet maintenance programmes.

### **Greater London Authority (Statutory Consultee)**

6.5 Housing

The financial appraisal suggests the offer put forward represents the maximum reasonable amount. In this case, however, the Mayor is concerned at the substantial contribution being sought by Tower Hamlets Council for health care provision. The contribution of £1.113 million in this respect is significant and will impact on the delivery of social rented accommodation within the scheme. Tower Hamlets Council should reconsider this requirement and seek that a proportion of this is redistributed to the social rented component of the scheme, and towards the provision or management of open space as part of either Braham Street Public Park and Goodman's Fields regeneration.

**(OFFICER COMMENT: The applicant has agreed to increase S106 contributions to gyratory improvements and open space by approximately £500,000 resulting in a reduction in the healthcare contribution. It is recommended that a proportion (£100,000) be redirected to the Aldgate Public Art and Culture Trail as identified in the Draft Aldgate Masterplan.)**

Design

The officer's report raises a number of concerns regarding the design, in particular the external appearance of the building. GLA design officers will open discussions regarding the elevations of the building. These matters should be resolved before the Mayor considers the case for final determination.

**(OFFICER COMMENT: The applicant has met with the GLA and provided further details of façade design. The GLA have agreed that they are now satisfied with the proposals.)**

Energy

New information has recently been submitted by the applicant regarding options for the

inclusion of combined heat and power and a complimentary renewable (solar water heating or photovoltaic panels). Discussions will continue, and the applicant should make a clear commitment to the preferred technologies, which should also be secured by Tower Hamlets Council through planning conditions.

### **TfL (Statutory Consultee)**

- 6.6 TfL welcomes the restraint based approach to parking with 36 spaces, five allocated for disabled persons. Clarification as to the location and detail of the disabled spaces is required. The level of parking equates to around 0.15 spaces per unit which is within the London Plan maximum. The proposed section 106 agreement indicates that there will be a car-free agreement excluding residents of the development from a parking permit. This is welcomed in order to encourage sustainable travel and minimise vehicle trip generation in the Aldgate area.

The development includes 242 cycle spaces. In order to comply with TfL's cycle parking standards this should be increased to 264 spaces, including the provision of eight public access spaces at ground floor. Clarification is also required with regard to access to the cycle store and whether cyclists will use the car or pedestrian lift. A more convenient way to get to and from the bicycle storage area should be considered to promote cycling for daily use as a sustainable mode of transportation.

**(OFFICER COMMENT: The basement cycle store has been redesigned to be accommodated on one floor level (with cycle friendly stairs and a ramp).**

The transport assessment estimates that over 200 walking trips will be generated by the development on Alie Street and Buckle Street. TfL would welcome further details including a walking audit and an assessment of the impact of additional trips on the surrounding road network. The proposed open space between the two buildings is welcomed. Measures should be in place to prevent vehicle or motorcycle from over running on such space.

It is noted that the section 106 package includes £40,000 for highway pedestrian and cycle movements. This is an opportunity to improve facilities along routes from the site to public transport nodes, bus stops and other facilities and is therefore welcomed.

As part of the Aldgate Union Phase 2 development, TfL is supporting proposals to remove the Aldgate gyratory and reinstate two-way traffic on Whitechapel High Street. The new highways working will provide an improved pedestrian environment including at-grade crossing facilities and better conditions for cyclists and public transport interchange as well as the implementation of a new public space on the western arm of Braham Street. As residents and visitors of this proposed development will benefit from these improvements TfL welcomes the proposed section 106 contribution of £500,000.

**(OFFICER COMMENT: the applicant has increased the contribution towards TfL to £914,469, in order to provide funding towards Aldgate Gyratory improvements and provision of open space on Braham Street. This contribution will also go some way to mitigate the impact of development on the surrounding transport and road network).**

TfL welcomes the submission of a draft residential travel plan with the transport assessment. The travel plan will be secured and monitored through a section 106 agreement. Whilst TfL welcomes this approach, further information is required about supporting measures such as the car club provision, appointment of a travel plan coordinator and car park management strategy. The office component of the development does not trigger the requirement for a travel plan; however it would be beneficial to extend some elements of the residential travel plan to employees.

In conclusion, TfL has no in principle objections to this application provided the above issues

are resolved satisfactorily.

### **London Underground**

- 6.7 The application site is located some distance from the District line tunnel under Whitechapel High Street and therefore London Underground have no comments to make on this application.

### **Environment Agency (Statutory Consultee)**

- 6.8 No objection subject to the application of conditions relating to the method of piling foundations, the control of surface water and drainage, contamination and remediation.

### **English Heritage (Statutory Consultee)**

- 6.9 English Heritage is particularly concerned with regard to the impact of the proposed twenty eight storey tower on views of the Tower of London from Queens Walk. The proposed tower will be intrusive and detract from the setting and legibility of the overall group. The submitted views of the proposal in relation to the Tower of London are inadequate.

Together the listed mid nineteenth century stucco Dispensary, the mid eighteenth century classical Church and 1870's Elementary School form an attractive group. Whilst each building differs in character, the group is united by a similar scale; the scale of the eighteenth and nineteenth century City Fringe. This scale is picked up by the existing early twentieth century warehouse on the site of the proposal. The warehouse, whilst not of outstanding architectural value, compliments the appearance of the group in terms of its mass and rhythm. This is a group of buildings which is worthy of Conservation Area Status.

The proposed tower would significantly detract from the setting of this group of listed building as seen from Alie Street and Leman Street in terms of scale and architectural character. It would also detract from the character and appearance of the intimate paved courtyard which separates the two parts of the German School. Whilst, as discussed on site with the agents and architects, development of the adjacent open corner site (at the south east corner of the Leman/Alie Street junction) would close up some views of the site, the overall impact would nevertheless be significantly detrimental. The tower would also have a detrimental impact on other views within the area including that from Whitechapel Road across the historically important Altab Ali Park (within the Whitechapel High Street Conservation Area).

The proposed tower would sit uncomfortably within the urban block which contains the site. The architects have attempted to ease the join between the development and the adjacent listed building by setting the tower back from the building line of the base block from which it rises but measures such as this only serve to highlight the fact that this is not a suitable site for a tall building.

English Heritage strongly object to the proposal in its current form as it would significantly detract from the setting and appearance of the adjacent group of listed buildings as well as the Tower of London World Heritage sites.

**(OFFICER COMMENT: Please refer to the discussion section of this report.)**

### **English Heritage (Archaeology) (Statutory Consultee)**

- 6.10 No objections, subject to conditions securing the implementation of a programme of archaeological work in accordance with a written scheme for investigation.

### **London City Airport (Statutory Consultee)**

6.11 No safeguarding objection.

### **Thames Water**

6.12 No objection in principle. Separate approval required from Thames Water regarding waste and water services.

### **NATS (Statutory Consultee)**

6.13 No safeguarding objection.

### **City Corporation (Statutory Consultee)**

6.14 No objections raised.

### **CABE**

6.15 Accept the principle of a tall building in this location and agree that residential development is appropriate on this site. However, CABE are not convinced that the site can successfully support the quantum of residential development proposed. Concerns relate to the form of the tower, its height and scale in relation to other buildings around the current gyratory and its relationship with the street.

The lower building appears to knit into the surrounding urban fabric relatively well, but CABE is concerned that the mass and form of the taller building are at odds with its immediate context. CABE think that the tower's bulky shape does not respond well to adjacent buildings, in particular the German Lutheran Church and St George's School, and that its footprint does not fully reinforce the street edge.

CABE previously raised significant concerns about the disparity between the Buckle Street entrance to the affordable housing and the Alie Street entrance to the private homes in the tower.

CABE shares the position stated in the local planning authority's draft Aldgate masterplan that the buildings between Whitechapel High Street and Braham Street should form the apex of building heights in Aldgate, and the scale of this proposed development in this location, a block back from the current gyratory system, is not successful. CABE thinks the proposal does not meet the standards of excellence set out in the English Heritage/CABE Guidance on Tall Buildings.

**(OFFICER COMMENT: Please refer to this discussion section of this report.)**

### **Natural England (Statutory Consultee)**

6.16 No objection, subject to securing conditions relating to the provision of green and brown roofs.

### **BBC**

6.17 No comments provided.

## **7. LOCAL REPRESENTATION**

7.1 A total of 105 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. The application has also

been publicised in East End Life and on site. The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No. of individual responses: 7     Against: 7     In Support: 0

7.2 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

#### Design and Conservation

- Height of building out of keeping with surrounding area
- Proposed building would dwarf the Grade 2 listed buildings in Alie Street and surrounding buildings.

#### Amenity

- Proposal will result in a loss of daylight/sunlight
- Proposal will result in a loss of privacy
- Proposal will result in additional wind tunnelling

#### Noise and Air Quality

- Increase in dust, air and noise pollution from building works and traffic movements
- ES omits assessment of dust and noise impacts
- Additional noise from the operations of the shops/restaurants
- Noise resulting from emptying of refuse store
- Noise from traffic and car lift

#### Transport

- The proposal will result in an increase in traffic congestion
- Inadequate parking facilities are provided
- Inadequate servicing arrangements and facilities

The following issues were raised that are not considered to be material to the assessment of this application:

- The proposal will restrict neighbouring properties development potential
- The fire stairs come out on Plough St
- Existing residents parking rights have not been considered
- Digging of deep foundations for the proposed building would damage the foundations of listed buildings.

## **8. MATERIAL PLANNING CONSIDERATIONS**

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

1. The uses proposed on site and in particular the ratio of residential to employment floorspace provided;
2. The number of housing units on site and provision of affordable housing units;
3. Mix of housing units provided;
4. The principle of a tall building on this site;
5. The design of the proposed scheme;
6. Amenity impacts on surrounding properties as a result of changes to the scheme; and
7. The impact on traffic and transport.

## Land Use

### 8.2 Principle of Housing

Policy 5C.2 of the London Plan identifies the Aldgate and Whitechapel area as one of the primary opportunity areas within the East London Region. By the year 2016 it is hoped that the Aldgate/Whitechapel area will be able to provide 14,000 new jobs and 700 new homes for London.

8.3 Policy CAZ1 of the adopted UDP (1998) specifies that within the Central Area Zone, a balance of Central London core activities compatible with fostering London's role as a commercial, tourist and cultural centre, will normally be permitted. Central London core activities do not include housing.

8.4 The site is identified on the Interim Planning Guidance (October 2007) as site CF12d. The Interim Planning Guidance (October 2007) states that the preferred use for this site is Employment (B1). Indicative maps contained in the Interim Planning Guidance (October 2007), indicate the site is within a preferred office location.

8.5 Policy HSG 1 of the Interim Planning Guidance (October 2007) states:

*"in accordance with government guidance and the Mayor, the council will seek to concentrate the highest intensity of uses, including residential uses, in locations with high accessibility to public transport and to shops and services"*

8.6 The proposal will provide 235 residential units (23,239 square metres) and 1864 square metres of commercial floorspace comprising 1156.5 square metres of Office (B1) and 717.5 square meters of retail (A1 & A3). The ratio of residential to commercial floorspace on this site being 93:7.

8.7 Clearly there is some conflict between the strategic policy approach and the more localised policy direction for the Aldgate sub-area. From a strategic perspective, there is a shortage of housing across London. While UDP policies do not outwardly support residential development in the CAZ, it is recognised that the more recent policy approach, as noted in the London Plan, directs larger schemes, including residential schemes, to sites with high transport accessibility and good local access to shops and services.

8.8 The applicant has submitted an independent study prepared by Edwards Symmons. This analyses the feasibility of office development on this site, taking into account the city fringe context and demand for office space. The study report notes that there is 2.5 million sq feet proposed within the immediate vicinity of Alie St, including (amongst others) the Aldgate developments. It notes that an office scheme on this site would be coming to the market at the same time as a number of competing schemes and it is likely that office space would be let at a discount to these competitors and long voids may be expected. It notes the site's location is at the poorer end of Alie Street- the more prominent part being between Leman Street and Mansell Street.

8.9 The report recommends mixed uses schemes in this location due to the relative scarcity of residential space in E1 and its proximity to the City. The surveyor also recommends a substantial higher proportion of residential to commercial would be appropriate.

8.10 The Interim Planning Guidance (October 2007) and emerging Aldgate masterplan provide localised guidelines for the location of uses within the Aldgate Sub-Area. Its concentrates the preferred office location around the Aldgate Union gyratory to the north of Alie Street. Further away from Aldgate, the preferred uses change from employment-led mixed use to mixed use, including portions of residential. (Goodmans Fields). Also of note is the recent approval of large office schemes of approximately 200,000 square metres at Aldgate. These schemes



include the closure of Braham St, the removal of the gyratory and a new park for both workers and residents within the immediate area - all of which satisfies the emerging policy requirements. Further, the AAP is not adopted as yet by the Council and it would be imprudent to refuse this scheme on the basis of this document.

8.11 In addition the Mayor of London in the Stage 1 referral response from the GLA states that:

*“The Mayor has previously accepted the principle of a mixed use residential led tower on the site given the proximity to the City Fringe, its location on a Brownfield site and its proximity at the interface between the Central Activities Zone and the existing Aldgate/Whitechapel Opportunity Area. In considering the strategic location the Mayor took into account the high level of public transport accessibility and proximity to the River Thames and the aspirations of policy 3B.4 which seeks a mix of uses in such location including housing.*

*This application is arguably a genuine mixed use proposal, albeit as residential led. Given the site is not a strategic employment location, the principle of mixed use development is acceptable in this case so long as the council continues to monitor its release of employment sites and identifies new ones to ensure the retention of an adequate supply of land for employment generating uses within the borough.”*

8.12 When considered against the policy situation with regard to housing, it is clear that although the emerging Interim Planning Guidance (October 2007) and emerging masterplan do not support housing on this site specifically, the London Plan and local policies provide strategic support for housing within the borough and especially on sites with excellent connections and services. Further, the applicant has provided sufficient evidence to assure officers that there is sufficient office space within the vicinity and an office-led scheme would not be sufficiently viable to proceed with development of this site. On balance, the predominant use of this site for housing is supportable.

## **Housing**

8.13 Affordable Housing

Policy 3A.8 of the London Plan states that Borough's should seek the maximum reasonable amount of affordable housing taking into account the Mayor's strategic target that 50% of all new housing in London should be affordable and Borough's own affordable housing targets.

8.14 The Interim Planning Guidance (October 2007) Policy CP22 seek 50% affordable housing provision from all sources across the borough with a minimum of 35% affordable housing provision on site's capable of providing 10 or more dwellings.

8.15 A total of 64 affordable housing units out of the total 235 units is proposed, representing 27% provision overall. Whilst this scheme does not meet the London Plan target of 50% as calculated by the number of units, it does provide 35% affordable housing as calculated by habitable rooms (236 out of a total of 674), thus satisfying the Council's Interim Planning Guidance (October 2007) and Housing Needs Survey targets. This is largely achieved through the provision of a large number of family housing units within the socially rented tenure as noted below in Paragraph 8.15.

8.16 Of the affordable housing provision of 71% would comprise social rented accommodation and 29% intermediate calculated by habitable rooms. This generally accords with the London Plan's objective that 70% of the affordable housing should be social rented and 30% intermediate but does not meet the requirements of Policy HSG5 Interim Planning Guidance (October 2007), that requires a social rented to intermediate ratio of 80:20 for grant free affordable housing. However, given compliance with adopted London Plan policy, the tenure split proposed is acceptable.

### 8.17 Housing Mix

On appropriate sites, UDP Policy HSG7 requires new housing schemes to provide a mix of unit sizes including a “substantial proportion” of family dwellings of between 3 and 6 bedrooms.

8.18 Interim Planning Guidance (October 2007) specifies the appropriate mix of units to reflect local need and provide balanced and sustainable communities. Family accommodation is again identified as a priority reflecting the findings of the Borough’s Housing Needs Survey as well as the draft East London SRDF. In terms of family accommodation, the Policy requires 45% of social rented housing and 25% of market and intermediate housing to comprise family housing (units with 3 or more bedrooms respectively).

8.19 The proposal would provide for 235 residential units in the following mix:

	<b>Private</b>	<b>Affordable</b>	<b>Total</b>	<b>% of total Units</b>
1 Bed (2 person)	98	17	115	49%
2 Bed (3 person)	50	14	64	27%
3 Bed (5 Person)	23	23	46	20%
4 Bed (7 person)	0	2	2	1%
5 Bed (9 Person)	0	8	8	3%
<b>TOTAL</b>	<b>171</b>	<b>64</b>	<b>235</b>	<b>100%</b>

8.20 The affordable housing for rent would comprise the following dwelling mix:

	<b>No of Units (Proposed)</b>	<b>No of habitable rooms</b>	<b>% of social habitable rooms</b>	<b>LBTH Housing Needs Survey Unit basis</b>
1 bed	8	16	10%	20%
2 bed	10	30	18%	35%
3 bed	13	52	31%	30%
4 bed	2	10	6%	10%
5 bed	8	58	35%	5%
<b>TOTAL</b>	<b>41</b>	<b>166</b>	<b>100%</b>	<b>100%</b>

8.21 The scheme provides 24% family units (3, 4 and 5 bedroom units) across all tenures. More importantly, the scheme provides 120 habitable rooms out of a total of 166 habitable rooms as family housing within the socially rented component (72%) (or 23 out of a total of 41 socially rented units (56%)). Both are in excess of the minimum amount of family housing required within the socially rented tenure. The intermediate and market component of family housing is 17% as compared to the Interim Planning Guidance (October 2007) requirement of 25% for family housing across these two tenures. Whilst not strictly consistent with Policy HSG2.2 of the Interim Planning Guidance (October 2007), it must be kept in mind that this is as a result of gaining well in excess of the overall number of socially-rented family housing units which are more desirable in respect of satisfying borough housing needs.

8.22 Further, the applicant has submitted a toolkit analysis that demonstrates that the scheme is on the borderline of viability. This can be read alongside social rented component that incorporates 72% family units (by habitable rooms), which is well in excess of the Interim Planning Guidance (October 2007) requirement of 45% family housing. In addition, the family housing provision within the affordable housing tenure is an improvement on the previously approved scheme and has been endorsed by the Council’s Housing Department. On this basis the scheme can be supported.

## Design, Density and Scale

- 8.23 London Plan Policy 4B.3 and Policies CP20 and HSG of the Interim Planning Guidance (October 2007) note that proposals should achieve the highest possible intensity of use compatible with local context and with public transport capacity. The scheme will result in a density of approximately 940 units per hectare (uph). Table 4B.1 of the London Plan indicates densities up to 435 units per hectare are appropriate in urban sites with good transport links.
- 8.24 Policy UD1 of the Interim Planning Guidance (October 2007) specifies that the bulk, height, and density of development must consider the surrounding building plots, scale of the street, building lines, roof lines, street patterns and the streetscape. The development must also respond in a sustainable manner to the availability of public transport, community facilities and environmental quality.
- 8.25 Policy UD2 of the Interim Planning Guidance (October 2007) states that tall buildings will be permitted in identified clusters as detailed in the Area Action Plans subject to a number of criteria. Further, the site is included in the "Proposed Tall Buildings Areas" in the interim Planning Guidance Document October 2007. The proposal satisfies the relevant criteria of Policy UD2 as follows:
- The architectural quality of the building is considered to be of a high design quality;
  - The scheme contributes to an interesting skyline, and contributes to the general graduation of maximum building heights from west to east
  - The scheme meets the standards of sustainable construction and resource management;
  - The scheme meets the Council's requirements in terms of micro-climate;
  - The scheme enhances the movement of people, particularly through the new pedestrian route in the middle of the site.
  - Appropriate planning obligations are included to mitigate the impact of the development on the existing social facilities in the area;
  - The proposal satisfies the Council's requirements in terms of impact on privacy, amenity and overshadowing;
  - The BBC have considered the proposal in terms of the impact on the telecommunications and radio transmission networks and concluded any impacts of the development can be mitigated via an appropriate clause in the S106 agreement;
  - The transport capacity of the area now and in the future was considered as part of the Environmental Impact Assessment process. TfL have concluded that the transport assessments submitted satisfy the Council's requirements (including the cumulative impact);
  - A total of 1647 sqm of private and communal amenity space is provided, excluding the provision of green roofs
  - The proposal also includes an appropriate S106 contribution towards existing and proposed open spaces. The amenity space arrangements are considered to satisfy the Council's requirements;
  - As discussed above, the mix of uses proposed are considered appropriate. The Council's urban design officer has recommended that the detailed design of the ground floor be conditioned to ensure that the development contributes to its surroundings at street level;
  - The overall sustainability of the project is considered satisfactory.
- 8.26 The GLA support the size, height and bulk of the scheme. However, concerns have been raised about the design and form of the building at this location and the associated impacts on the adjoining Listed Buildings. In particular, consideration concerning the fact that the building height is not in accordance with the emerging Aldgate master plan (which requires buildings to step down from the approved Aldgate Union buildings) needs to be thought about. In addition, whilst CABE consider the principle of a tall building is acceptable in this location, they are not convinced in terms of the form, height and scale of the proposal in

respect to the context of the adjoining buildings and relationship to the street.

- 8.27 Whilst we recognise the concerns raised by CABE and English Heritage, officers must consider the scheme on balance and in accordance with the relevant policies and site specific circumstances.
- 8.28 It is considered that the building height of 28 storeys (93.80 metres high) does provide a graduated height from the taller consented schemes at Aldgate Union (102.50 metres high) to the north of the site towards the Goodman's fields to the south. The requirement for this stepping down is identified in the terms and intentions of the emerging Aldgate Masterplan. However, given the Aldgate Masterplan is not yet adopted and is still emerging, the document holds little weight and provides limited status in determining the application.
- 8.29 The design of the proposed tower element of the building at 28 storeys in height with roof plant takes on a triangular form which seeks to ensure that the building is appropriate in mass and scale when viewed from the surrounding area. It is considered the scheme allows for an appropriate response to a constrained inner-city site and incorporates well-designed elevations and landscaping. Given the visibility of the building, it is considered that conditions should be included any permission to ensure high quality materials and finishing during construction.
- 8.30 The appearance of bulk within the tower element is addressed through proportions of panels, slim frames and fine verticals. The stepping of the roof seeks to add further articulation whilst also providing generous areas of amenity space for future residents. The provision of balconies seek to provide a human scale and identity to this residential building. In addition, these spaces provide exclusive amenity space for the occupiers and extension of the living areas.
- 8.31 The proposal provides for improved linkages through the site which will result in through access from Alie Street through to Buckle and eventually Braham street open space, as envisaged through the Aldgate Masterplan.

#### Setting of the Adjacent Listed Buildings

- 8.32 PPG13 requires authorities considering applications for planning permission or listed building consent for works which affect a listed building to have special regard to certain matters, including the desirability of preserving the setting of the building. In particular policy DEV1 and policy CON1 of the Interim Planning Guidance (October 2007) seeks to ensure that proposals do not adversely affect the setting of Listed Buildings.
- 8.33 The site adjoins three Listed Buildings these being;
- 19a Lemman Street: a two storey stucco building which was formerly used as the East London Dispensary;
  - The St Georges German and Lutheran Church and;
  - The St Georges German and English Schools.
- 8.34 The lower levels of the proposal and podium level have been designed to be sympathetic to the massing and form of the adjoining listed buildings to the east. This form allows for a local scale to the direct street frontage with the tall element of the building being set back and situated towards the east with a triangular footprint orientated away from the western boundary.
- 8.35 In addition, it is considered that that setting of these Listed Buildings has already been compromised by the existing buildings to the north, being 19 Lemman Street and 21-23 Buckle

Street and by the approved towers at Aldgate Union. These buildings result in the northern courtyard being dominated by a blank southern elevation of approx seven to eight storeys in height.

- 8.36 A number of photomontages have been completed illustrating views of the proposal from the courtyard of the St George's Lutheran German Church and when viewed from Lemn Street to the south. These views illustrate that from the courtyard views are already limited by the existing warehouse buildings. However, it does not dominate the courtyard. The proposal would result in a greater vertical building mass when viewed from courtyard. However, the building has been designed with the podium level set back and given the angular nature of the design the view does not show the full width of the building.
- 8.37 The impact of the proposal of the adjoining Listed Buildings is considered to be acceptable and in general accordance with the guidance set out in PPG13. Whilst it is recognised that there will be impacts on the listed buildings, given the existing townscape and inconsistency of character of the area, it is not considered that the concerns would warrant the refusal of the application. The principle of a tall building is acceptable in this location, given the proximity of the site to the Aldgate Union cluster, and the listed buildings are already compromised by along the northern boundary.

#### Strategic Views

- 8.38 Given the sites proximity to the Tower of London policy 4B.17 of the London Plan requires Councils to assess whether a development would impact on the views within a landmark corridor. The application has been accompanied by an Environmental Impact Assessment which includes a Townscape and Visual Assessment. This document includes a number of computer generated views from strategic locations. These images demonstrate that the building sits below the towers and would not impact on any views of the towers. The views demonstrate that the building is lower than the Aldgate Union development and would not affect the ability to appreciate and recognise the Tower of London when viewed from the strategic locations.
- 8.39 Furthermore, the proposal has been reviewed by the GLA who have not raised any objections to the proposal in terms of the protected strategic views.
- 8.40 The principle of a tall building on this site has been consistently supported by the Mayor given the sites central location and proximity to the public transport network. The GLA have reviewed the design of the scheme and are satisfied that the proposals would deliver an acceptable design for this tall building.

#### Design Conclusions

- 8.41 The overall design is considered acceptable in policy terms and will make a positive contribution to the site and immediate area. The overall design, height, massing and footprint of the building responds positively to the typology of the area.
- 8.42 On balance, it is considered that the principle of a tall building in this location is acceptable and it would form part of the cluster of tall buildings emerging around the Aldgate Union site. The adjacent listed buildings are already compromised by existing buildings to the north and do not form part of a consistent street scene. The proposed buildings are set back from these buildings and the podium level respects the building frontages. It is not considered that the concerns raised by parties and statutory consultees would warrant the refusal of the scheme on design terms.

#### **Open Space/ Amenity space**

- 8.43 Policy HSG16 of the UDP requires all new housing schemes to incorporate adequate

provision of amenity space. Policy OS9 of the UDP seeks to ensure that a wide range of play facilities are available, particularly in areas where there is high child density, a high concentration of homes without gardens, there are poor environmental conditions and major roads or other physical barriers that limit accessibility.

8.44 The Interim Planning Guidance (October 2007) Policies CP30 & HSG7 and the Council's Open Space Strategy seeks to ensure that amenity space should be integrated into a development, maximise accessibility, maximise its usability, and not detract from the appearance of a building. Table DC2 of the Interim Planning Guidance (October 2007) sets out the required standards for residential amenity and children's play area provision (as also set out in the Council's Residential Space SGP, 1998).

8.45 In terms of residential amenity space for the 235 residential units proposed, 275 sqm of amenity space is required. A total of 1,647sqm of private and communal amenity space will be provided on the site, exceeding the requirements of the draft Core Strategy by 1,372sqm. In addition, 272sqm of space will be provided as green roofs. When the 410sqm public square is excluded from the above amenity space provision, the following is still achieved within the remaining 1,237sqm:

- 91% of the affordable units have either a balcony or exclusive roof terrace;
- All of the socially rented accommodation will have a balcony or exclusive roof terrace;
- 75% of units will have access to a roof terrace either communal or exclusive; and
- 69.4% of flats have either a balcony or exclusive roof terrace.

#### 8.46 Children's Play Space

In terms of children's play area provision, the proposal will include 78 units of family accommodation resulting in 98 bed spaces being created. This is broken down as follows:

- Intermediate Housing – 10 x 3-bed units (10 bed spaces);
- Market Housing – 23 x 3-bed units (23 bed spaces);
- Socially Rented Accommodation – 30 x 3-bed units (30 bed spaces), 10 x 4-bed units (20 bed spaces) and 5 x 5-bed units (15 bed spaces).

Based on the Council's requirements for child play space (e.g. 3sqm of play space for every child bed space), 294sqm of child play space should be provided. .

8.47 In terms of provision, to the north of the public square, near the feature wall, there will be an area for children to play. This area is approximately 85sqm in size and although this amount of provision does not meet the overall amount of children's play space required, the following matters should be considered:

- The proposal includes an over provision of 1,372sqm of general amenity space provision, (5.8sqm per unit) compensates for the 209sqm under provision of children's play space; and,
- The majority of the child bed spaces will be within the affordable housing units; and therefore have the benefit of balconies or exclusive or communal roof terraces.

8.48 Notwithstanding the above, the children's play space provided on the site will accommodate the demands of the 0-5 year category, whilst the amenity space provided within close proximity to the Site (at Goodman's Fields and Braham Street Public Park) will provide the necessary play space for the children over the age of 5-years and is within easy walking distance of the site (assuming the on-site amenity space is not sufficient for their means). With this in mind, the amount of children's play space is acceptable

## **Amenity**

- 8.49 Policy 4B.9 of the London Plan, Policy DEV1 of the Interim Planning Guidance (October 2007), require all large scale buildings to pay particular attention, in residential environments, to the impact of development on noise and vibration, air pollution, sunlight / daylight /overshadowing and microclimate.

## **Daylight/Sunlight**

### **8.50 Daylight results**

Daylight is normally calculated by two methods - the vertical sky component (VSC) and the average daylight factor (ADF). The latter is considered to be a more detailed and accurate method, since it considers not only the amount of sky visibility on the vertical face of a particular window, but also window and room sizes, plus the rooms use.

- 8.51 The change in sky visibility or VSC method only provides an indication as to whether there will be changes in lighting levels. It does not necessarily reveal whether the predicted quantity and quality of light is adequate, following the construction of a new development. However, the ADF method provides a means for making such an analysis.
- 8.52 Sunlight is assessed through the calculation of what is known as the annual probable sunlight hours (APSH). This method of assessment considers the amount of sun available in the summer and winter, for each window within 90 degrees of due south or, in other words, windows that receive sunlight.

### **8.53 36 Commercial Road**

Existing VSC (Vertical Sky Component) readings at first floor level all exceed 31% which is higher than would be normal in an urban situation. This is mainly as result of the railway viaduct which represents the only obstruction. The proposed design of the west elevation extends up eleven floors with the elevation set back as it progresses to the north. At effectively the lowest level to the elevation facing the development to Sunlight Square, the daylight readings at first floor level indicate compliance with the relevant VSC standards. Of the three closest windows on the first floor, two exceed the 27% VSC requirement whilst the third window is slightly less than this. Its loss of light when compared with the existing situation is acceptable given the urban context of the immediate area.

- 8.54 The Daylight and Sunlight Assessment submitted as part of the ES (Chapter 11) has shown that there will be no material impact upon the daylight enjoyed at 55-59 Alie Street and at Beagle House. There will be a reduction to the daylight to 19 Lemn Street and 32-34 Commercial Road, although it is considered that the remaining levels will be acceptable.
- 8.55 In summary, the quality of light available within the properties will either be close to the existing or at a reasonable level assuming rooms are to be used as habitable rooms. On the basis that the quality of light remaining is close to British Standard BS8206 Part II, it has been concluded that the light levels are reasonable.

### **8.56 Sun lighting results**

#### **36 Commercial Road**

Three east-facing, first floor windows will be affected by the proposed development. Of these, it is estimated that they will not lose more than 20% of their Annual Probable Sunlight hours (APSH) and that the resultant summer sunlight is close to BRE recommendations. It is again considered that the resultant level of sunlight (between half and three quarters is reasonable for an urban location. However, these noted windows already receive a low level

of sun and the proposal will leave a similar amount. As such, it is not considered that a reason for refusal on loss of sunlight grounds could be justified relating to this building. Other windows will not be affected as they are not east facing or higher in the building.

#### 8.57 Daylight and Sunlight conclusions

BRE guidelines state clearly that different light criteria is often appropriate in urban centres, as compared to more suburban environments. Whilst the proposal clearly will have an affect to neighbouring buildings light, the quality of the remaining light to adjacent residential properties would not be unacceptable or unusual for this urban location. On balance, the proposal is considered acceptable by Council officers, following detailed consideration of the light study.

#### 8.58 Response Regarding 36 Commercial Road

The applicant commissioned consultants to carry out additional day and sunlight analysis for the development at 36 Commercial Road in response to concerns raised by the owner on the impact of the proposed development in the future residential development at this site which was recently granted planning permission at appeal (PA/05/01450).

8.59 As a result of these concerns the applicant has revised the design of the 7 storey office building which is located adjacent to the boundary with 36 Commercial Road. The additional day and sunlight assessment demonstrates that there will be very little impact given that a majority of rooms within the development are unaffected by reference to the BRE Guidelines.

8.60 The sunlight analysis shows that there will be little impact within a majority of affected rooms by reference to the BRE criteria. Where there are impacts they are limited and would not give rise to a detrimental effect on the amenity of the proposed accommodation.

8.61 In addition, the revisions to the design of the office building have resulted in improved VSC and ADF figures for the rear windows to 32-34 Commercial Road to those originally indicated in the ES (chapter 11). It is therefore still considered that the remaining daylight and sunlight levels would be acceptable to these properties.

#### 8.62 Internal Impacts

The applicant has also commissioned consultants to carry out an internal sun and daylight analysis for the scheme. The results show that there is just one room, an open plan living room/dining room/kitchen, on the first floor which does not adhere to the BRE Guidelines. As the first to seventh floors within the proposed building would contain the same floor plate it is assumed that the same room will fail to adhere to the guidelines between the first and seventh floors (noted that on level 7 living room only as multi storey 4 bed unit, all other windows including kitchen comply). The room attained an average daylight factor of value of 0.97%, below the BRE guidelines which requires an ADF of 1.5% for a living/dining room and 2% for a kitchen.

8.63 These rooms do not comply as they are located within a recess and have balconies which result in an overshadowing impact at some times throughout the day. On balance it is considered that the provision of amenity space to these units is a more appropriate outcome.

#### 8.64 Noise/Vibration

The Noise and Vibration Assessment submitted as part of the ES (Chapter 12) concludes that the proposed insulation will ensure the residents enjoy a comfortable internal acoustic environment. The positioning of the plant, the specification of the machinery and the use of inbuilt mitigation measures will ensure that the statutory noise target is met. Conditions will also be applied to any approval to ensure that the ventilation system does not cause disturbance and construction traffic impacts are limited. It is accepted that the scheme will



result in some noise impacts. However, it is also acknowledged that these impacts can be controlled and minimised.

#### 8.65 Air Quality

The Air Quality Assessment submitted as part of the ES (Chapter 16) concludes that additional traffic flows attributed to the development are expected to lead to a negligible change in local air quality and no mitigation measures are recommended. The proposed boilers are not predicted to have an adverse impact on air quality.

#### 8.66 Microclimate

The Wind Assessment submitted as part of the ES (Chapter 10) concludes that at ground level all locations will be suitable for their intended use during both the winter (worst case) and summer seasons. The terraces were considered suitable for leisure walking or better throughout the year.

8.67 The proposal will generally be in accordance with Planning Policy Guidance Note 24 (PPG24) 'Planning and Noise', the 'London Ambient Noise Strategy' (2004), the 'Air Quality Strategy for London' (2001), Policies 4B.9 of the London Plan, DEV1, DEV2, DEV50 of the UDP and DEV1, CP4, DEV10 of the Interim Planning Guidance (October 2007), which relate to impacts on microclimate, daylight/sunlight, noise and vibration and air quality.

### **Parking/Transport**

8.68 The Site benefits from a PTAL rating of 6(a), which equates to an excellent rating of access to public transport facilities. The overall aims of PPG13, Policies 3C.2 and 2A.1 of the London Plan, Policies ST28 of the UDP and CP40, CP41 of the Interim Planning Guidance (October 2007), is to promote more sustainable travel choices, other than by private motor car, in areas that benefit from excellent transport facilities.

#### 8.69 Parking

Policy DEV19 of the UDP requires development to comply with maximum parking levels set out in Planning Standard 3, unless otherwise justified. Table PS7 of the Interim Planning Guidance (October 2007) sets out standards for motor car and motor cycle parking, which include:

- 1 car parking space per residential unit (no visitor spaces required), of which 10% must meet disabled space standards;
- 1 car parking space per 1,250sqm of office floorspace (GEA);
- No car parking provision for retail / restaurant floorspace; and
- Motorcycle parking is welcomed as a substitute for car parking. Motorcycle parking may be provided within the space allowed by the maximum standards, at a guideline rate of 5 motorcycle spaces in place of each permitted car parking space.

8.70 The Proposal includes the provision of 36 car parking spaces, amounting to approximately 0.15 spaces per unit (based on 235 residential units). Four of the residential car parking spaces will meet disabled parking standards (11%) and an additional disabled car parking space will be provided for the offices. The proposal also includes 6 motorcycle spaces for general use. The scheme satisfies maximum parking standards for this location in accordance with national, regional and local policy requirements.

8.71 In terms of cycle parking provision, the Council requires 1 cycle space per residential unit and visitor spaces at 1 per 10 units, which amounts to 258 cycle spaces for the Proposal. The Proposals will include the provision of 242 secure cycle spaces at basement level for use by residents (1 space per unit) plus 7 spaces for the office tenants (including shower facilities) as well as 8 cycle spaces for retail customers at ground level. The total proposed provision is therefore 250 cycle spaces, which is fractionally lower than the requirements set out in the Council's parking standards. However, this is considered acceptable but, is

generous and will more than meet the needs of the users of the Proposal.

#### 8.72 Pedestrian Linkages

The scheme includes a new pedestrian link between Buckle Street and Alie Street. This will assist to increase permeability, and complies with policies T18 and T19 of the UDP and Policy CP42 of the Interim Planning Guidance (October 2007) and the draft Aldgate Masterplan.

#### 8.73 Transport Capacity

The Transport assessment demonstrates that there is sufficient capacity within the public transport network to accommodate the additional demand for these services resulting from this scheme. This also takes into account the cumulative demand for these services from other developments within the locality.

8.74 The TA includes a Travel Plan which the occupiers of the site will use to further reduce the effect of the scheme on the immediate area. It commits the occupiers of the proposal to a number of measures, including the establishment of a travel coordinator that will promote the use of public transport cycling and walking.

#### 8.75 Servicing

The Proposal will be mainly serviced off Buckle / Plough Street (including refuse collections). Where service access is necessary along Alie Street for the office accommodation, service vehicles will be able to use a proposed lay-by so as not to impede traffic flow.

8.76 Deliveries of fuel for the biomass boiler will also be made via Buckle Street. The intention is that lorries will turn around in the Plough Street cul-de-sac and will then reverse to the fuel delivery point at the northern corner of the Site. Fuel (wood chips or pellets) will be delivered by chute into a secure hopper located over the basement fuel store. Details of this delivery system will be developed in conjunction with suppliers of bio energy heating systems.

8.77 In accordance with Policies T16 of the UDP, Policy DEV17 and Planning Standard 3 of the Interim Planning Guidance (October 2007), adequate servicing provision will be provided for the Proposal which includes appropriate circulation routes. Confirmation of the acceptability of the scheme service arrangements are set out in the TA submitted in support of this planning application. It can therefore be concluded that the Proposal will not result in:

- danger or significant inconvenience to other road users, including pedestrians and cyclists;
- obstruction of access for emergency service vehicles;
- detrimental impact on public transport operations;
- obstruction of the movement of traffic on major roads; and
- deterioration in the environment of residential and other sensitive areas.

### **Sustainable Development/ Renewable Energy**

8.78 In accordance the aims and objectives of PPS1, Policy 4A.7, Policy 4A.8 and Policy 4A.9 of the London Plan, the Mayor's Energy Strategy and guidance document on "Integrating Renewable Energy into New Developments" (September 2004) and Policy DEV2 of the UDP and Policies DEV5, DEV6 and DEV9 of the Interim Planning Guidance (October 2007), the Proposal:

- Is a sustainable development that seeks to ensure a better quality of life for its occupiers;
- Reduces carbon dioxide emissions by being energy efficient and utilising energy from sustainable sources;

- Incorporates passive design features to reduce energy consumption and meet the needs of sustainable development principles and sustainable construction practices, including:
  - solar shading provided by structure and balconies;
  - optimised glazing areas to apartments to improve daylight and reduce overheating;
  - high performance glazing to reduce heat gains and heat loss; and
  - shallow floor plates to office building to facilitate natural daylight and natural ventilation;
- Incorporates the following 'active' measures:
  - Mixed-mode ventilation/cooling with heat recovery;
  - High efficiency chillers;
  - Low energy lighting throughout the apartments;
  - High efficacy lighting to offices with daylight/occupancy and timer controls;
  - Low energy white goods to apartments; and
  - Power factor correction.

Together, these measures are predicted to reduce total carbon dioxide emissions from the whole development by around 21% when compared to base case emissions and the residential accommodation will attain an Eco- Homes rating of 'Very Good'.

8.79 Biomass heating was considered to have the greatest potential carbon dioxide emissions savings for this development. Biomass boilers suitable for this development burn wood in the form of small chips, which originate from forestry work. The boilers are equipped with high efficiency filters on the exhaust so that very low particulate emissions are achieved. The wood-chip boiler to be installed to provide community heating to the apartments and offices is in line with the GLA guidance document "Integrating renewable energy into new developments: Toolkit for Planners, developers and consultants". Paragraph 2.5, identifies biomass heating as one of seven forms of renewable energy acceptable for supplying the proportion of energy demand on new developments. It is estimated that the proposed biomass heating system could reduce carbon dioxide emissions, when measured against the base line emissions, (i.e. after the above energy efficiency measures are taken into account), of around 27%. This is in line with the Policy DEV6 of the Interim Planning Guidance (October 2007).

### **Access**

8.80 The scheme will yield much needed accommodation, including affordable homes and accommodation for key workers. The access statement submitted highlighted the developer's commitment to provide all accommodation to lifetime home standards to be adaptable for mobility housing. Most of the units have relative ease of access to disabled parking bays. The statement confirms that 10% of the resulting accommodation will be accessible by wheelchair. The applicant has also amended the scheme to address concerns raised by the access officer.

### **EIA**

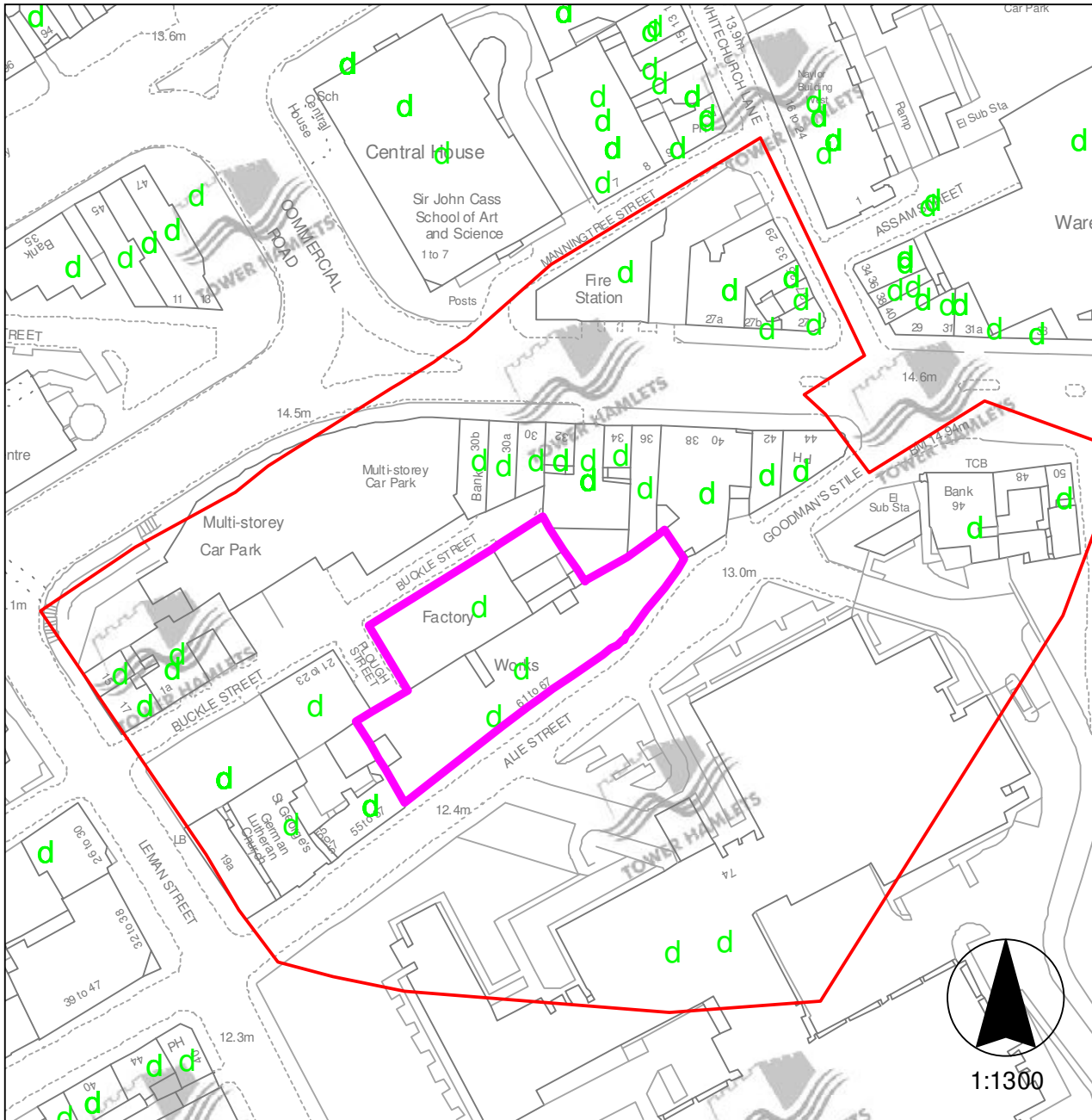
8.81 The applicant has submitted an updated EIA with the application. The Environmental Statement and further information/clarification of points in the ES have been assessed as satisfactory by Council's independent consultants Bureau Veritas. Mitigation measures required are to be implemented through conditions and/ or Section 106 obligations.

### **Conclusions**

9.1 All other relevant policies and considerations have been taken into account. Planning

permission should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

# Site Map



Legend					
	Planning Application Site Boundary		Consultation Area		Land Parcel Address

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process. The Site Map was reproduced from the Ordnance Survey mapping with the permission of Her Majesty's Stationery Office © Crown Copyright. London Borough of Tower Hamlets LA086568

**Site at 61-75 Alie Street and 16-17 Plough Street And 20 Buckle Street, Alie Street, London, E1**

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# Agenda Item 7.3

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b>	<b>Agenda Item No:</b> 7.3
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision and Consideration of Expediency of Taking Enforcement Action	
<b>Case Officer:</b> Rachel McConnell		<b>Ref No:</b> PA/07/02040	
		<b>Ward(s):</b> St Katherine's and Wapping	

## 1. APPLICATION DETAILS

**Location:** King Henry Stairs Wapping Pier, Wapping High Street, London

**Existing Use:** Mooring used as an operational base for a river cruise business.

**Proposal:** Replacement of the collar barge with pontoon. Installation of staff toilets, the relocation of the preparation kitchen's odour extractor, the relocation of the glass crusher, relocation of waste oil storage and installation of sewage and grey water tank.

**Drawing Nos/Documents:** DP(1), A/309/001/01001 Rev E, A/309/001/01002 Rev E, A/309/001/01003 Rev E, A/309/001/01004-01 Rev D, A/309/001/01004-02 Rev D, A/309/001/01005-1 Rev C, A/309/001/01005-2 Rev C, A/309/001/01006 Rev B, A/309/001/01007 Rev B, A/309/001/01008 Rev A, A/309/001/01009 Rev A, Site Context Plan

**Applicant:** Woods River Cruises

**Ownership:** PLA

**Historic Building:** n/a

**Conservation Area:** Wapping Pierhead

## 2 ENFORCEMENT DETAILS

**Location:** As above

**Existing Use:** As above

**Breach of Planning Control:** Material change of use to an operational base for a river cruise business, including office, storage, staff mess room, catering and associated waste storage facilities.

**Applicant:** As above

**Ownership:** As above

## 3 INTRODUCTION

- 3.1 Following concerns raised by residents, the Council carried out a detailed investigation into matters relating to the development and use of Wapping Pier that culminated in a report being published in February 2007.
- 3.2 The Report concluded that Wapping Pier, as a structure, is lawful and planning

permission was not required for it. However, the Report also concluded, on balance, planning permission was required for the existing use of the pier. Further, it recommended that Woods River Cruises submit a planning application for that use. The Report is attached as Appendix 1.

3.3 The current planning application submitted by Woods River Cruises relates only to the physical works and does not seek permission for their current use of the Pier. Woods River Cruises have taken the view that the operations at Wapping Pier do not amount to a material change of use. Our report does acknowledge that the law surrounding this matter is not clear. Therefore, Woods River Cruises are not unreasonable in taking the position they have. However, it remains the Council's position that planning permission is required for the current use.

3.4 Against this background, this report advises members both on the planning application submitted by Woods River Cruises for the physical works at Wapping Pier and also considers the expediency of taking enforcement action in relation to the current use of the pier which the Council considers is a breach of planning control.

#### **4 SUMMARY OF MATERIAL PLANNING CONSIDERATIONS**

4.1 The Corporate Director has considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan (as saved September 2007), the Council's Interim Planning Guidance and the history of the site and has found that:

- a) The proposal will not harm the visual amenity of the area and will preserve the character of the Wapping Pierhead Conservation Area and not detract from the setting of the adjacent Listed buildings. This is in accordance with policy DEV2 in the UDP, policies DEV1, CON1 and CON2 in the Interim Planning Guidance which accords with policy 4b.11 in the London Plan.
- b) The proposal does not result in material harm to the amenity of residents in particular with regard to noise and smell. The proposal therefore meets the criteria set out in Policies DEV2 & DEV50 in the Unitary Development Plan and Policies DEV1 and DEV10 in the Interim Planning Guidance.
- c) In principle the proposed extension of Wapping Pier is acceptable and in line with GLA and Council policy which supports and encourages the use of the River Thames for maritime purposes. This complies with policies 3b.10, 3d.6 and 4c.24 in the London Plan which encourage the provision of a pier within the River Thames which serves tourism and leisure.
- d) The proposal would have no significant impact on the surrounding transport network. The proposal therefore complies with Policy T16 in the Unitary Development Plan and Policy CFR2 of the Interim Planning Guidance which seek to ensure that development proposals do not have an unacceptable impact on the transport system.



4.2 The Corporate Director has considered the particular circumstances of the breach of planning control against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan (as saved September 2007), the Council's Interim Planning Guidance and the history of the site and has found that:

- a) because there are no grounds to sustain a reason for refusal for the use as an operational base for a river cruise business, it is not expedient to take enforcement action in respect of the breach of planning control.

## 5 RECOMMENDATIONS

5.1 That the Committee resolve to **GRANT** planning permission and the Corporate Director Development and Renewal be given delegated power to impose conditions and informatives on the planning permission to secure the following:

1. Standard time limit
2. Hours of works (construction)
3. Construction method statement
4. No solid matter stored near river
5. Construction storage for oil, fuel and chemicals in accordance with submitted details to prevent pollution of the water environment
6. No light spill to protect wildlife habitats

### Informatives

1. Environment Agency Informative

5.2 That the Committee resolve **NOT** to take enforcement action against the use as an operational base for a river cruise business because there are no grounds to sustain a reason for refusal subject to:

The completion of a legal agreement, to the satisfaction of the Chief Legal Officer, to secure the following:

1. Control activity during the night time

5.3 That if within 3 months of the date of this committee the legal agreement has not been completed, the Corporate Director Development and Renewal is given delegated power to serve an enforcement notice in respect of the use of the pier as set out in Section 2.

## 6 DETAILS OF PROPOSAL, SITE AND SURROUNDINGS AND PLANNING HISTORY

### Proposal

6.1 *Physical works* –Planning permission is sought for the replacement of the collar barge with a pontoon, installation of staff toilets, the relocation of the preparation kitchen's odour extractor, the relocation of the glass crusher, relocation of waste oil storage and installation of sewage and grey water tank.

- 6.2 *Operational Use* - The Council's report published in February 2007 concluded that there has been a change of use of Wapping Pier by Woods River Cruises from a mooring facility to an operational base. The Council's view is that there has been a material change in the character and nature of activities at Wapping Pier, which is as the operational base for a river cruise business, including office, storage, staff mess room, catering and associated waste storage facilities. Full details are contained within the appended report.

### **Site and Surroundings**

- 6.3 The application site comprises a set of linked installations situated off and connected to the northern bank of the River Thames known as Wapping Pier. The site is accessed from a public highway leading to King Henry's Stairs from Wapping High Street between Swan Wharf to the west and King Henry's Wharf to the east. King Henry's Stairs no longer exist, long since having rotted away.
- 6.4 Wapping Pier lies wholly within the Wapping Pierhead Conservation Area and there are Grade II Listed buildings to the north, including King Henry's Wharf and Gun Wharf.
- 6.5 The various elements of Wapping Pier are as follows:
- Tunnel Pier (original part of the complex)
  - Tower Pier
  - The Steel Piles
  - The Collar Barge
  - The Berthing Dolphin
- 6.6 Further details of the evolution of the Pier are set out in the appended report.

### **Planning History**

- 6.7 The following planning decisions are relevant to the application:
- 6.8 PA/00/00085 – Replacement of existing timber pontoon guides with two new steel piles to secure the pontoon (30 March 2000) – planning permission granted
- 6.9 PA/07/00475 - Request for Screening Opinion as to whether a planning application for the use of the pier as an operational base for a river cruise business including office, storage, staff mess rooms, catering and associated waste and recycling storage requires an Environmental Impact Assessment (4 May 2007) – EIA not required
- 6.10 Report under Section 171 of the Town and Country Planning Act 1990 into Matters Relating to the Development and Use of Wapping Pier (February 2007). The report concluded that planning permission was required for the operational use of Wapping Pier. However it concluded that the physical works that had been carried out at the Pier were either lawful as they were carried out by the PLA (a statutory undertaker) under the General Permitted Development Order, by Woods River Cruises under planning permission PA/00/00085 or they have been there a sufficient length of time to be immune from enforcement action.

## 7 POLICY FRAMEWORK

### 7.1 Unitary Development Plan (as saved September 2007)

Proposals:	(1)	Flood Protection Area
	(2)	Areas of Archaeological Importance
	(3)	Site of Nature Conservation Importance
	(4)	Strategic Riverside Walk
Policies	DEV1	General Design
	DEV2	Environmental Requirements
	DEV26	Small Scale Proposals
	DEV43	Protection of Archaeological Heritage
	DEV44	Preservation of Archaeological Remains
	DEV46	Riverside, Canalside, Docks and Other Water Areas
	DEV49	Moored Vessels and structures
	DEV50	Noise
	DEV55	Development and Waste Disposal
	DEV56	Waste Recycling
	DEV57	Development Affecting Nature Conservation Areas
	EMP6	Employing Local People
	EMP8	Encouraging Small Business Growth
	T16	Traffic Priorities for New Development
	U2	Development in Areas at Risk from Flooding
U3	Flood Protection Measures	

### 7.2 Interim Planning Guidance for the purposes of Development Control

Proposals:	(1)	Flood Risk Area
	(2)	Site of Importance for Nature Conservation (Sites of Borough Importance – Grade 1)
	(3)	Blue Ribbon Network
	(4)	Conservation Area
	(5)	Area Action Plan Boundary (City Fringe)
Policies:	CP1	Creating Sustainable Communities
	CP2	Equality of Opportunity
	CP3	Sustainable Environment
	CP5	Supporting Infrastructure
	CP7	Job Creation and Growth
	CP9	Employment Space for Small Businesses
	CP11	Sites in Employment Use
	CP12	Creative and Cultural Industries and Tourism
	CP14	Combining Employment and Residential Use
	CP31	Biodiversity
	CP33	Sites of Importance for Nature Conservation
	CP36	The Waterside Environment and Waterside Walkways
	CP37	Flood Alleviation
	CP39	Sustainable Waste Management
	CP41	Integrating Development with Transport
	CP45	The Road Hierarchy
	CP46	Accessible and Inclusive Environments
	CP49	Historic Environment

DEV1	Amenity
DEV2	Character and Design
DEV10	Disturbance from Noise Pollution
DEV11	Air Pollution and Air Quality
DEV15	Waste and Recyclables Storage
DEV17	Transport Assessments
DEV19	Parking for Motor Vehicles
DEV21	Flood Risk Management
DEV57	Development affecting Nature Conservation Areas
EE2	Redevelopment/Change of Use of Employment Sites
EE3	Relocation of Businesses outside of Strategic Industrial Locations and Local Industrial Locations
OSN3	Blue Ribbon Network and the Thames Policy Area
CON1	Listed Buildings
CON2	Conservation Areas
CFR1	City Fringe Spatial Strategy
CFR2	Transport and Movement
CFR8	Waste
CFR21	Employment uses in Wapping sub-area

### 7.3 **Spatial Development Strategy for Greater London (London Plan)**

3b.10	Tourism Industry
3c.2	Matching Development to Transport Capacity
3d.6	Visitors Accommodation and Facilities
3d.12	Biodiversity and Nature Conservation
4b.1	Design
4b.10	London's Built Heritage
4b.11	Heritage Conservation
4b.12	Historic Conservation-led regeneration
4b.14	Archaeology
4c.1	The Strategic Importance of the Blue Ribbon Network
4c.2	Context for Sustainable Growth
4c.3	Natural Value of the Blue Ribbon Network
4c.10	Historic Environment
4c.11	Conservation Areas
4c.12	Use of water for transport, leisure and recreation
4c.13	Passenger and Tourism Uses
4c.16	Increasing Sport and Leisure Use of the Blue Ribbon Network
4c.19	Mooring Facilities on the Blue Ribbon Network
4c.23	Safety on and Near to the Blue Ribbon Network
4c.24	Use of Thames to promote greater use of water based leisure

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

PPS1	Delivering Sustainable Development
PPG4	Industrial, Commercial Development and Small Firms
PPG13	Transport

PPG15	Planning and the Historic Environment
PPG16	Archaeology and Planning
PPG24	Planning and Noise

7.5 **Community Plan**

The following Community Plan objectives relate to the application:

A better place for living safely

A better place for living well

A better place for creating and sharing prosperity

A better place for learning, achievement and leisure

**8 CONSULTATION RESPONSE IN RESPECT OF THE PLANNING APPLICATION**

8.1 The views of officers within the Directorate of Development and Renewal are set out in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

**1) LBTH Environmental Health**

8.2 Noise-

- No objection to noise during daytime - the activities from Woods River Cruises do not cause Noise Nuisance.
- Initial Noise Assessment Report by URS dated 10/08/2007 was materially deficient. The amended Noise Report from URS dated 19/10/2007 and its contents show that there will be some noise nuisance from Woods River Cruises on the local residents during night time.
- Relocation of extract system away from sensitive residential facades will help to mitigate noise impact during the night.
- The activities of Boat 2 (Barracuda and Kitchen Extract Fan) are above the criteria set in BS4142 which is the conclusion reached by URS Consultant in his report.

8.3 Odour – Assessment satisfactory

8.4 Refuse – the application has no implications for refuse collection.

8.5 Food Hygiene – Advises standards regarding food handling and preparation

**2) LBTH Highways**

8.6 No objection

**3) The Inland Waterways Association (Statutory Consultee)**

8.7 No objection - positively welcome this development of passenger boat facilities.

**4) Port of London Authority (Statutory Consultee)**

8.8 The PLA has no objections to the application as submitted. Advises that in addition to planning permission, the approval of the PLA under the Port of London Act 1968 (as amended) will be required.

**5) Environment Agency (Statutory Consultee)**

8.9 Raises no objection to the proposed development subject to conditions to prevent pollution and minimise disruption to wildlife during the construction process.

## **6) English Heritage (Statutory Consultee)**

8.10 No comments.

## **7) Transport for London (Statutory Consultee)**

8.11 The proposal would not result in any unacceptable impact on the TLRN or SRN.

## **8) Thames Water (Statutory Consultee)**

8.12 No objection with regard to sewage infrastructure and water infrastructure.

## **9 LOCAL REPRESENTATIONS**

9.1 A total of 130 neighbouring properties within the area shown on the map added to this report were notified about the application and invited to comment. The application has also been publicised in East End Life and on site.

9.2 No of individual responses: 30 Objecting: 29 Supporting: 1

9.3 The following issues were raised in representations that are material to the determination of the application, and they are addressed in the next section of this report:

### *Noise Nuisance*

- Noise nuisance from:
  - structures hitting one another (mainly collar barge) as mooring lines inadequate
  - glass crusher
  - staff activity
  - collection of waste
  - dinghy (used to transport staff)
  - chains anchoring the barges
  - vessels delivering fuel & stores
  - engines revving
  - maintenance
  - equipment poorly secured
  - extraction fan
- No evidence in report to suggest that the proposal will alleviate noise issues - 24 hour operation not appropriate in this location;
- Noise report submitted is flawed;

### *Other Impacts*

- Unacceptable odour from:
  - cooking (frequent)
  - rubbish
  - exhaust fumes
  - fumes from refuelling
- Odour assessment not adequate – location chosen for testing not near to residential properties;
- New kitchen extractor will increase possibilities of unpleasant cooking odours;
- Catering and non-admin activities could be moved onshore - would not jeopardise business/employment;
- No need for toilets to be provided on Pier – location not satisfactory;

#### *Visual Amenity*

- Unightly -Inappropriate development in a Conservation Area and adjacent to Listed Buildings;
- The site has over expanded ;

#### *Waste, sewage etc*

- Waste collection and storage contributes to pollution;
- Sewage tank pumped by boat is unacceptable – potential noise and pollution;
- Waste and maintenance should be moved to a non-residential area - Proposals for handling waste are inadequate;
- Danger of spillage and contamination from sewage and oil storage - debris and sewage around the Pier;
- Proposals for storage of full and empty gas cylinders are hazardous.
- Site used as general dumping ground;

#### *Highways Impacts*

- Traffic noise, hold-ups and pollution in Wapping High Street – in particular from deliveries;
- Transport will be worse when East London Line closed ;
- Transport assessment submitted is inadequate – does not take into account vehicles blocking Wapping High Street.
- Vehicles illegally parking – blocking highway;

#### *Issues relating to Lawful Use*

- Not appropriate activity on any part of the Thames;
- No assurance that the barge will not reappear;
- Abuse of permitted development rights - Activities have intensified;
- Restrictions should be imposed regarding the use of the pontoon;
- Failing in statutory duties to not take enforcement action;
- Rightful use is as riverbus public passenger pier.

#### *Other Issues*

- No justification for further extension of the Pier;
- Erosion – should require annual erosion inspections of adjacent buildings;
- No explanation why EIA not required;
- Some physical works excluded in the Council's report, including:
  - locked pier entrance gate
  - storage area next to entrance gate
  - removable street bollards
  - refuse containers on public highway

#### *Representations in Support*

- The additions to vessels and hardware do not amount to a change of use;
- Support the river being used professionally;
- No objection to the current operation;

9.4

Comments have been received prior and during the course of the application with regard to our conclusions relating to the law. Most of these issues were raised prior to the Council's report being issued in February 2007 and were therefore taken into account when completing the report. The Director sees no

reason in the light of the further representations made to alter the conclusions there set out, although matters have moved on in the sense that Woods River Cruises have declined to make a planning application in respect of the current use.

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

- Loss of view;
- Devaluation of property;
- No public access;
- Licensed use is as a mooring only.

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

- The time it has taken to submit an application and application submitted not for change of use (OFFICER COMMENT: It is not possible to make a person submit a planning application)
- Enforcement Action should have already been taken. Collar barge now permitted development (OFFICER COMMENT: This report considers the expediency of taking enforcement action against the change of use. The Council's view is that the collar barge is lawful as it benefits from permission under the Town and Country Planning (General Permitted Development Order) 1995. It was expected that an application would be submitted by Woods River Cruises for the change of use to an operational base for a river cruise business but did this not transpire)
- Missing information on submitted plans (OFFICER COMMENT: The plans showing the existing layout clearly show all structures. The plans submitted considered acceptable to determine application)
- Grade II Listed Buildings not shown on plan in Design and Access Statement (OFFICER COMMENT: An application can not be made invalid due to the quality of the Design and Access Statement. Comments have been noted)
- Permission cannot be granted for works that are required in relation to activities that are unlawful (OFFICER COMMENT: This is addressed in section 11.1-11.4)
- The report published by the Council in February 2007 is inaccurate – questionable use of permitted development rights (OFFICER COMMENT: The report provides the Council's view to the use and expansion to Wapping Pier. Legal advice was sought when compiling this report. The report is appended)
- Process of carrying out Conservation Area Appraisals (OFFICER COMMENT: Not a consideration when determining this application)
- LBTH and Statutory Consultees misled by applicants – not submitted planning application for change of use (OFFICER COMMENT: This report considers the expediency of taking enforcement action against the change of use)
- Notice not served on all owners (OFFICER COMMENT: This matter has been drawn to the attention of the applicant)



## 10 CONSIDERATION OF EXPEDIENCY OF TAKING ENFORCEMENT ACTION

10.1 Government advice in the form of Circular 10/97 (Enforcing Planning Control) states that *“The power to issue an enforcement notice is discretionary...it should only be used where the LPA are satisfied that there has been a breach of planning control and it is expedient to issue a notice, having regard to the provisions of the development plan and to any other material considerations.”*

10.2 In its report published in February 2007, the view was taken that there has been a breach of planning control. The Director remains of this view. However, it is still necessary to consider, in accordance with Government guidance, whether it is appropriate to take enforcement action. This involves a consideration of the planning merits of the unauthorised development – in effect, members need to consider the matter as if Woods River Cruises had, as they were requested to, made an application in respect of the use.

### **Description of development**

10.3 Full details of what has happened are set out in the report published in February 2007. In summary, there has been a change from mooring vessels at a pier which had merely two staff undertaking a number of office functions to use containing a head office function, kitchen facilities and a bigger overall operation (see paragraph 5.56 of the report).

### **Planning considerations**

10.4 The main planning issues raised by the use of Wapping Pier are:

1. Principle of the Development
2. Impact on Residential Amenity
3. Highways Issues
4. Other Issues

#### **1. Principle of the Development**

10.5 The principle of the development of Wapping Pier as an operational base for a river cruise business is supported by policies 3b.10, 3d.6 and 4c.24 in the London Plan which encourage the provision of a pier within the River Thames which serves tourism and leisure.

10.6 Policy EMP8 in the UDP encourages the growth and expansion of new or expanding businesses where a proposal meets other policy requirements. The development of the Pier as an operational base is in accordance with the principle of this policy which seeks to encourage the development of small businesses.

10.7 It is acknowledged that Policy DEV49 in the UDP requires that proposals for moored vessels and structures in or over river areas must be essential to the movement of goods or passengers by water. However, the provision of office and cooking facilities on Wapping Pier is directly linked to the function as an operational base for a river cruise business. The proposal is therefore in accordance with the requirements of this policy.

10.8 Given the above, there is clear policy support for the use of Wapping Pier as an operational base for a river cruise business.

## 2. Impact on Residential Amenity

10.9 Even if the principle of development is acceptable, it may still not be appropriate to permit it (or to take no enforcement action in respect of it) because of its impact on residential amenity. Of particular relevance are Policies DEV2 and DEV50 in the Unitary Development Plan and Policies DEV1 and DEV10 in the Interim Planning Guidance which seek to protect the amenity of residents. The main objections raised by residents to the change of use relate to noise and smell.

### *Noise*

10.10 The starting point when considering the impact on residential amenity is to understand the nature of the area. For example, acceptable noise levels within a mixed-use town centre area will be different to a purely residential location. Wapping Pier is located adjacent to former and existing industrial and commercial buildings, some of which have been converted to residential use. The River Thames is an active river where activity will generate some noise. The change of use of the Pier needs to be considered in the context of that environment. Noise may be considered acceptable here which might not be considered acceptable in a purely residential environment. On the other hand, it would not be appropriate to allow development in such a location irrespective of the noise it caused. A reasonable balance has to be struck.

10.11 A noise report prepared on behalf of Woods River Cruises<sup>1</sup> demonstrates that the noise levels during the daytime are acceptable given the location of Wapping Pier on an active river where there is some ambient noise. However, unacceptably high levels of noise have been detected during the night. The Wapping Pier Noise Assessment Report dated 19 October 2007 concludes that noise generated by Boat 2 (Barracuda), from both berthing and servicing of the boat, and from the kitchen fan noise are above the British Standard 4142 'marginal significance' level for noise generation but below the 'complaints likely' level. The Director is satisfied having consulted with the Environmental Health Officer, that the Report and its conclusions are broadly accurate.

10.12 Woods River Cruises have advised that in principle they would be willing to enter into a legally binding agreement which would essentially impose restrictions similar to a planning condition on the hours of operations of Wapping Pier and require that the appropriate sound mitigation measures implemented.

10.13 It is recommended that a legal agreement restricts the usage of Wapping Pier during the night (23:00 to 7:00), requiring that the following activities are not be carried out during these times:

- no cooking shall take place in the pier kitchen or in any craft moored at the Pier;
- and no glass crushing shall take place on the pier or on any craft moored at the Pier;

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<sup>1</sup> At the time that the planning application was first being prepared, Woods River Cruises were proceeding on the basis that planning permission would be sought for the use. The decision to apply for permission only in respect of the physical works was taken late in the process and some of the material submitted to justify the use was not of course relevant to the application that was ultimately submitted. However the information is still relevant to the Council in respect of its consideration whether to take enforcement action – in particular, the submitted reports in respect of noise, smell and highways.

- no rubbish moved and no loading or unloading of food, drink and other catering paraphernalia.

10.14 The proposed measures accord with the advice in Planning Policy Guidance Note 24: Noise. It is considered that these mitigation measures will address many of the concerns raised by local residents and identified in the noise report.

10.15 The Wapping Pier Noise Assessment Report dated 19 October 2007 does conclude that there is noise generated by berthing of Boat 2 (Barracuda) above BS4142 'marginal significance' level. However given that the pier is located on an active river and can lawfully be used as a mooring facility, the levels of noise are considered reasonable.

10.16 As set out above, Woods River Cruises have indicated that they are willing to enter such an agreement. Were they to decline to do so, or were it to prove not possible to agree the terms of such an agreement, the Director would bring the matter back to Committee with a recommendation that enforcement action be taken.

*Smell*

10.17 The main issues relating to smell raised by residents are in respect of cooking smells coming both the boats and also from the kitchen located on the Pier. Woods River Cruises have submitted an odour report. This has been prepared by URS Corporation Ltd. It states that::

*'The site was visited on two separate days, both the morning and afternoon, during a particularly busy operational time for the pier ...Assessments were undertaken whilst food was being prepared in the prep kitchen and boats were moored, representing a worst-case operational scenario.*

*Meteorological conditions were also favourable to odour detection, with a gentle to moderate wind blowing from source to receptor during both survey days.*

*It is considered unlikely that odour complaints received from local residents under normal operational conditions are justified – as the EPA 1990 notes, complaints made against an odour emitting facility do not automatically imply that there is a statutory nuisance.'*

10.18 The Council's Environmental Health Officer who has visited the site on a number of occasions considers that the report and its conclusion are essentially correct. It is therefore reasonable to conclude that smells emanating from the site are not at unacceptable levels.

10.19 Other sources of smell referred to by residents include exhaust fumes and odour from refuelling. Both of these circumstances could occur under the lawful use as a mooring facility and it is not considered that such smells occur with such frequency or are intrinsically so unacceptable that enforcement action should be taken in respect of the use on account of them.

### **Conclusion on impact on residential amenity**

- 10.20 It is considered that provided that the applicant enters into a legal agreement as detailed above, the unauthorised development will not result in material harm to the amenity of residents. The proposal therefore meets the criteria set out in Policies DEV2 & DEV50 in the Unitary Development Plan and Policies DEV1 and DEV10 in the Interim Planning Guidance.

### **3. Highways Issues**

- 10.21 The development is served by Wapping High Street where on-street parking is controlled. The traffic assessment submitted by Woods River Cruises concludes that:

*'The transport statement has demonstrated that Wapping Pier is located in an area well located in terms of pedestrian and cycle access from residential areas, as well as key public transport routes from a variety of residential locations. Parking restrictions in the area also limit employees at the pier from driving to the site as a means of commuting.'*

*'It is concluded that the use of the pier does not have a material impact on the operation of Wapping High Street with low levels of movement, even during the peak hours.'*

- 10.22 The impact on the highway has also been assessed by LBTH Highways department who have raised no objection to the use of Wapping Pier as an operational base. The scale of the use is controlled by the capacity of the mooring and is comparatively small.
- 10.23 The temporary closure of the East London Line is not considered to have material implications with regard to the use of Wapping Pier.

### **4. Other Issues**

- 10.24 Matters relating to the pollution of the Thames which might occur through the operational use of the Pier are covered by legislation outside the remit of planning.
- 10.25 Concern has been raised that the not all physical works were addressed in the Council's report issued in February 2007. The works so identified include the locked pier entrance gate, storage area, removable street bollards and storage refuse containers on public highway. It is considered that these works are ancillary to the operational use of the pier and relatively minor.

### **5. Conclusion**

- 10.26 The use of Wapping Pier is in accordance with policy. There is no basis for objection based on amenity, highway or any other grounds apart from a concern in respect of night-time noise. This is capable of being addressed by a legally binding agreement and Woods River Cruises have said that, in principle they are willing to enter such an agreement. In these circumstances the Director considers that it would not be expedient for the Council to take enforcement action.

## 11 ASSESSMENT OF THE CURRENT PLANNING APPLICATION

### Introduction

- 11.1 The planning application submitted by Woods River Cruises seeks permission solely for physical works to Wapping Pier, namely the replacement of the collar barge with pontoon, installation of staff toilets, the relocation of the preparation kitchen's odour extractor, the relocation of the glass crusher, relocation of waste oil storage and installation of sewage and grey water tank.
- 11.2 It is the Council's view that planning permission is required for the existing use of Wapping Pier. The February Report considered that on balance there has been a material change of the Pier by Woods River Cruises. However, as the position is not altogether clear, submitting an application solely for the physical works to the Pier is not an entirely unreasonable position for Woods River Cruises to have adopted.
- 11.3 With regard to determining the current planning application, an application for physical works that relates to a use that may not be lawful can be considered if the works are relatively minor in terms of their physical impact. The main element of this planning application is for the replacement of the collar barge with a pontoon. This is to provide a mooring facility, which would be in accordance with the lawful use of Wapping Pier. Given that the nature and scale of the other elements within the application are relatively minor, it is considered that it would not be unreasonable in this instance to consider the planning application in isolation from the use.
- 11.4 It should be noted that the application was prepared by the applicants on the basis that planning permission would be sought for the use. The decision to apply for only the physical works was taken late in the process and some of the material prepared and submitted to justify the use is therefore not relevant to the application that was finally submitted. This information however will be useful for considering the expediency of taking enforcement action.
- 11.5 Note that the replacement of the collar barge with a pontoon to provide a mooring facility would be in accordance with the lawful use of the pier.

### Planning Considerations

- 11.6 The main planning issues raised by the current planning application are:

- 1 Design and Visual Amenity
2. Noise Issues
3. River Enhancement
4. Other Issues

- 11.7 **1. Design and Visual Amenity**  
Policy DEV1 in the Unitary Development Plan and DEV 2 in the Interim Planning Guidance are concerned with the impact of the design of the development on the character of the Borough. Policies CON 1 and CON 2 in the Interim Planning Guidance seek to ensure that developments will not have an adverse impact on the setting of a Listed Building and will maintain the existing architectural and historic character of Conservation Areas.

- 11.8 The proposed pontoon is sited parallel to the pier and replaces an existing collar barge. There will be no additional projection into the river when compared with the existing facilities. It is considered that the design of the pontoon is in keeping with the existing pier and being an open structure will allow views through the side railings.
- 11.9 The installation of staff toilets, relocation of the preparation kitchen's odour extractor, glass crusher, waste oil storage and installation of sewage and grey water tank are relatively minor works that will not significantly alter the overall appearance of the Pier.
- 11.10 It is considered that the proposal will preserve the character of the Wapping Pierhead Conservation Area and will not detract from the setting of the adjacent Listed buildings to the north in accordance with policies CON1 and CON2 in the Interim Planning Guidance.
- 11.11 Given that the main element of the proposal is to replace an existing barge with a pontoon, it is considered that any harm to the visual amenity of nearby residents will not be increased by the proposal. The proposal therefore meets the requirements of Policy DEV1 in the UDP and Policy DEV2 in the Interim Planning Guidance with respect to design and visual amenity issues.

## **2. Amenity Issues**

- 11.11 Policy DEV2 in the Unitary Development Plan and Policy DEV1 in the Interim Planning Guidance require that the impact of development on the amenity of residents and the environment generally has been fully considered. Policy DEV50 in the Unitary Development Plan and DEV10 requires consideration to be given to noise generated from developments.
- 11.12 The main potential noise concern associated with this planning application is considered to be intermittent noise from the pontoon banging against the mooring point and from the chain moorings. It should be noted that the existing collar barge is immune from planning control and this planning application provides an opportunity to improve the existing situation. The plans indicate that all pile guides are to be fitted with low friction energy absorbing rubbers to minimise noise.
- 11.13 The relocation of the preparation kitchen's odour extractor to face away from residential properties will be an improvement on the existing situation and the Council's Environmental Health Officer has raised no objection to this aspect of the proposal. The relocation of glass crusher will have no greater impact with regard to noise than the existing circumstance.
- 11.14 The Director considers that, subject to the imposition of appropriate conditions, the proposal will not result in material harm to the amenity of residents. The proposal therefore meets the criteria set out in Policies DEV2 & DEV50 in the Unitary Development Plan and Policies DEV1 and DEV10 in the Interim Planning Guidance.
- 11.15 Noise issues relating to the use of Wapping Pier as an operational base for a river cruise business have been considered in sections 10.9-10.16 above.

### **3. River Enhancement**

- 11.16 The provision of a pier within the River Thames which serves tourism and leisure is supported by policies 3b.10, 3d.6 and 4c.24 in the London Plan. The expansion of existing businesses is supported by Policy EMP8 in the UDP. There is no requirement that there should be a need for additional facilities.
- 11.15 The PLA is responsible for navigational issues and for licensing both construction work and the continuing use of the moorings. The PLA have raised no objection to the application.
- 11.16 Policy DEV46 resists development that will have an adverse impact on the water environment. Given that no objection has been raised by both the PLA and the Environment Agency, it is considered that the proposal will not have an adverse impact on the ecological value and landscape value of the waterway.

### **4. Other Issues**

- 11.17 The proposal for physical works is considered to have no significant impact on the surrounding transport network. The provision of toilet facilities on the Pier is considered ancillary to the function of the Pier.
- 11.18 Relocation of waste water storage and sewage will have minimal visual impact and is considered acceptable. No objection has been raised by Thames Water to the application. The Environment Agency has recommended conditions to prevent the pollution of the water environment.
- 11.19 The application proposes to relocate the preparation kitchen's odour extractor to face away from residential properties. This is considered to be a fundamental improvement on the current situation.
- 11.20 Concern has been raised that the barge may be retained in addition to the proposed pontoon. If it were so retained, this would constitute development. The PLA could carry this out under their permitted development rights, but Woods River Cruises would need planning permission from the Council to carry out such a development. The current application has to be considered on its merits, which means that weight cannot be given to speculation as to what may happen in the future.
- 11.21 Concern has also been raised about erosion. The Director considers that it is unlikely that any erosion as a result of the proposal Pier would be sufficient to sustain a reason for refusal. The Environment Agency and PLA raise no objection.
- 11.22 A Screening Opinion was carried out to determine whether an Environmental Impact Assessment (EIA) was required. It was determined that an EIA was not required (See Planning History at paragraph 6.9 above).

### **Conclusion**

- 11.23 The Corporate Director considers that it is appropriate that planning permission be granted subject to appropriate conditions.

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# LONDON BOROUGH OF TOWER HAMLETS

## REPORT UNDER SECTION 171 OF TOWN & COUNTRY PLANNING ACT 1990

### INTO MATTERS RELATING TO THE DEVELOPMENT AND USE OF WAPPING PIER

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Michael Kiely  
Head of Development Decisions  
Development and Renewal Directorate

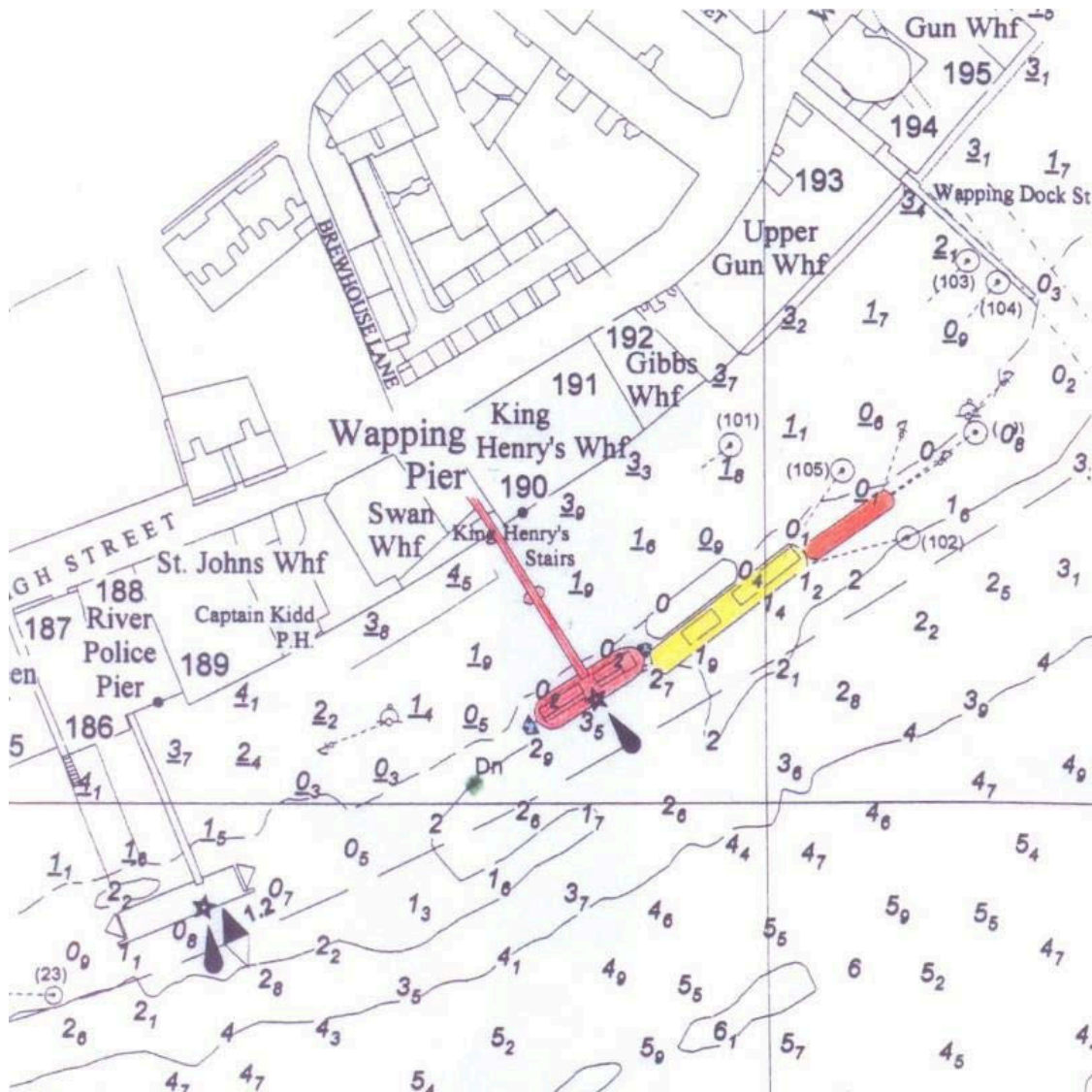
5 February 2007

## 1. INTRODUCTION

- 1.1. The Council is considering the expediency of taking enforcement action regarding the development of Wapping Pier pursuant to the provisions of Part VII of the Town & Country Planning Act 1990 (as amended) (the "1990 Act") in accordance with the guidance issued by the Department for Communities and Local Government ("DCLG"), as set out in Circular 10/97: Enforcing Planning Control and its associated explanatory note – Planning Policy Guidance ("PPG") Note 18: Enforcing Planning Control.
- 1.2. In conjunction with this, the Council is considering the issue of whether any steps are to be taken regarding the development of Wapping Pier under the provisions of the Town & Country Planning (Environmental Impact Assessment) (England and Wales) Regulations 1999, in accordance with the guidance issued by the Department of Communities and Local Government (DCLG), as set out in Circular 02/99: Environmental Impact Assessment and its associated explanatory note – Note on Environmental Impact Assessment Directive for Local Planning Authorities.
- 1.3. The purpose of this report is to consider the evidence assembled during the investigation of the case. The analysis is based on the examination of this evidence. This will involve setting out the relevant legislation and testing the assembled evidence against the provisions of the relevant statutes, regulations and guidance.
- 1.4. For the avoidance of doubt, no earlier position or opinion is to be relied upon. As such, the case will be considered from first principles.

## 2. SITE DESCRIPTION

- 2.1. Wapping Pier comprises a set of linked installations occupied by Woods River Cruises ("WRC"). The complex is situated off and connected to the northern bank of the River Thames at Wapping, in the London Borough of Tower Hamlets.
- 2.2. The complex is accessed from a public highway leading to King Henry's Stairs from Wapping High Street between Swan Wharf to the west and King Henry's Wharf to the east.
- 2.3. The Wapping Pier site complex lies wholly within the Wapping Pierhead Conservation Area.
- 2.4. The various elements of the Wapping Pier complex are, as follows:
  - a) Tunnel Pier – coloured red on the site plan - comprises the original part of the complex together with the gangplank access to/from the river bank at King Henry's Stairs.
  - b) Tower Pier – coloured yellow on the site plan - comprises a portion of the complex which was previously moored upstream of Tower Bridge in The Pool of London and is now moored downstream of Tunnel Pier.
  - c) The Steel Piles - coloured blue on the site plan - these were replacements for earlier wooden piles used to guide the rise and fall of Tunnel Pier on the tide.
  - d) The Collar Barge – coloured orange on the site plan - comprises the 'dummy' barge secured by river-bed screws and moored downstream of Tower Pier.
  - e) The Berthing Dolphin – coloured green on the site plan - comprising three steel piles –installed to the upstream side of Tunnel Pier and thought to facilitate the berthing of the mv Silver Sturgeon.



Site Plan of Wapping Pier

### **3. THE ISSUES**

- 3.1. A number of documents have been received by the Council evidencing/containing complaints regarding Wapping Pier.
- 3.2. The purpose of this section is to raise the issues brought forward by complainants, as a basis for the terms of the investigation, analysis and findings that follow further on in this report. It is not intended to represent an exhaustive or comprehensive schedule of the submissions, notes, letters and e-mails received on this matter.
- 3.3. The following represents a summary of the complaints prior to the commencement of this investigation:

#### **a) Bjuvman – Gun Wharf Residents Association**

Objects to the transition from moorings to operational base. No firm proposals for the toilets and disposal of black and grey water, refuse or recyclables. Relocate kitchen extractor fans to river side of the kitchen. Proposes limitations on: number of people working full-time on the Pier; hours of use; number of toilets; and noise output. As Pier is a conservation area, situation should return to early 1990s status without Downstream Collar Barge and Tower Pier pontoon. Offices to be made subject to same Health & Safety Regulations, as if on land.

#### **b) Neesom – 9 Gun Wharf**

Objects to the Downstream Collar Barge extension. Considers operational base not precise. Uncertainty of provision for rubbish storage and disposal. Objects to location of this provision on a barge and proposes it should be on land. Toilets and sewage holding tanks should be on land.

#### **c) Sayers – Flat 3, 124 Wapping High Street**

Raise each of the concerns relating to: rubbish collection, handling and disposal; water treatment and sewage issues; noise issues in terms of time-of-day and noise levels; smells and associated issues relating to meal preparations; siting of the complex in a conservation area and adjacent to listed buildings to the detriment of the character and appearance of this sensitive location; general issue on the enlargement of the facilities and the change from moorings to operational base. Thus consider the development of the Pier is not permitted development. Submits that the works should be “screened”, as they require an Environmental Impact Assessment, falling under Schedule 2 of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999.

#### **d) Shaw – 34 Gun Wharf**

Complains about times of noise generation – comprising barge movements, staff calling, extractor fans, returning customers - all day and at night. Complains about cooking smells, sewage and waste food not being properly stored.

e) **Westcott – 23 Gun Wharf**

Objects to the transition from mooring pier to operational base.  
Objects to the noise and pollution from the use.

f) **You – 15 Gun Wharf**

Lack of any conservation area consent for the Pier and its extensions. Concerned by storage of rubbish and recyclables. Loss of view. Unsightly collection of buildings. Objects to the use of GPDO powers for such significant extensions. Queries whether operational land extends to moored barges and pontoons. Queries whether the works are required for purposes of shipping or embarkation / disembarkation of passengers' etc. Queries whether offices for marketing, sales accounts required for handling of traffic. Objects to extension of Pier. Objects to moorings 150m downstream.

## 4. THE LEGAL BACKGROUND

### Introduction

- 4.1. This section of the report sets out the framework of statutes, regulations and guidance that are relevant to a consideration of the planning position of Wapping Pier, and to those issues raised by the complaints received and listed in section 3 of this report.
- 4.2. The starting point is the definition of ‘development’, which is set out in section 55(1) of the Town & Country Planning Act 1990 (the “**1990 Act**”):

*“... the carrying out of building, engineering, mining or other operations in, on, over or under land, or the making of any material change in the use of any buildings or other land.”*
- 4.3. This definition is comprehensive and exhaustive i.e. it is inclusive of all manner of development. However, the 1990 Act also sets out – in section 60 – provisions for the Secretary of State to determine that certain types of ‘development’ are ‘permitted’ i.e. although these types of development are ‘development’, there is no requirement to seek formal planning approval in order to undertake them, provided that the specific requirements of the permission are satisfied. So, these types of development are not brought under the control of the Local Planning Authority (the “**LPA**”) by virtue of being “permitted”. The various classes of development that are permitted by regulation are set out in the Town & Country Planning (General Permitted Development) Order 1995 (the “**GPDO**”).
- 4.4. ‘Permitted development’ is a set of classes of specific types of ‘development’, generally defined by thresholds of size and often conditioned by terms of constraint, which the LPA in most cases must merely acknowledge (because the type of development is not within their control).
- 4.5. Development which would otherwise be “permitted” under the GPDO, may not be in circumstances where:
  - a) the LPA has put in place an Article 4 Direction, thus withdrawing permitted development rights; or
  - b) the LPA has previously given conditional planning permission and taken the opportunity to withdraw permitted development rights through a condition.
- 4.6. There are also circumstances where the permitted development rights may only be exercised after a period of prior notification by the statutory undertaker. In practice, the use of permitted development rights may give rise to serious disagreement between neighbours and practitioners alike.

- 4.7. It can be difficult to disentangle the ‘rights’ of the developer exercising their permitted development rights. The case at Wapping Pier has involved the consideration of both the nature of the parties involved but also the timing of the particular works.
- 4.8. Additionally, the meaning of ‘development’ (as shown in paragraph 4.2 above) as well as including the “*carrying out of building, engineering, mining or other operations in, on, over or under land*” also separately provides that the “*making of any material change in the use of any building or other land*” can itself constitute development under the definition in section 55 of the 1990 Act.
- 4.9. In addition, those wishing to undertake certain types of development are required to submit a planning application with an accompanying environmental statement, evaluating the likely environmental impacts of the development, together with an assessment of how the severity of the impacts could be reduced. These assessments – an Environmental Impact Assessment (“**EIA**”) - arise from the provisions of the Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (the “**1999 Regulations**”).
- 4.10. The provisions of the GPDO in relation to permitted development are amended in certain circumstances where the permitted development is also covered by the scope of the 1999 Regulations relating to EIAs. Paragraph 63 of Circular 02/99 sets out that:

*The provisions of the GPDO (insofar as they relate to Schedule 1 or Schedule 2 development) are amended (regulation 35(3)) as follows:*

- a) *Schedule 1 development is not permitted development. Such developments always require the submission of a planning application and an Environmental Statement.*
- b) *Schedule 2 development does not constitute permitted development unless the local planning authority has adopted a screening opinion to the effect that EIA is not required. Where the authority's opinion is that EIA is required, permitted development rights are withdrawn and a planning application must be submitted and accompanied by an Environmental Statement.*

[These requirements do not apply to certain types of permitted development, which are set out in paragraphs 151-156 of the Circular. However, none of these exclusions are relevant to the case under investigation at Wapping Pier.]

- 4.11. The Circular sets out that the 1999 Regulations will not apply to the completion of development begun before 14 March 1999. In addition, development carried out under permitted development rights and consisting of building operations or engineering operations is excluded from the provisions of the 1999 Regulations where such development



was already underway under permitted development rights at the time of the 1999 Regulations coming into force.

- 4.12. This report now turns to the specific provisions of the GPDO and the 1999 Regulations, in relation to the issues to be considered in respect of the development undertaken at Wapping Pier.

### **Town & Country (General Permitted Development) Order 1995**

- 4.13. Schedule 2, Part 17 of the GDPO deals with development by Statutory Undertakers. Class B of Part 17 deals specifically with the form of development carried out at Wapping Pier:

*“Class B Dock, pier, harbour, water transport, canal or inland navigation undertakings*

#### *Permitted development*

*B. Development on operational land by statutory undertakers or their lessees in respect of dock, pier, harbour, water transport, or canal or inland navigation undertakings, required —*

- (a) for the purposes of shipping, or*
- (b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking.*

#### *Development not permitted*

*B.1 Development is not permitted by Class B if it consists of or includes —*

- (a) the construction or erection of a hotel, or of a bridge or other building not required in connection with the handling of traffic,*
- (b) the construction or erection otherwise than wholly within the limits of a dock, pier or harbour of —*
  - (i) an educational building, or*
  - (ii) a car park, shop, restaurant, garage, petrol filling station or other building provided under transport legislation.*

#### *Interpretation of Class B*

*B.2 For the purposes of Class B, references to the construction or erection of any building or structure include references to the reconstruction or alteration of a building or structure where its design or external appearance would be materially affected, and the reference to operational land includes land designated by an order made under section 14 or 16 of the Harbours Act 1964 (orders for securing harbour efficiency etc., and orders conferring powers for improvement, construction etc. of harbours), and which has come into force, whether or not the order was subject to the provisions of the Statutory Orders (Special Procedure) Act 1945.”*

4.14. To consider the applicability of permitted development rights it is necessary to analyse the terms set out in the GPDO and derive the tests that need to be applied to the evidence. Subsequently, these tests can be applied to assess whether ‘permitted development rights’ apply to specific parts of the Wapping Pier complex.

4.15. Those tests are that:

- 1) the development must be undertaken by a statutory undertaker or, in the case of Schedule 2, Part 17, Class B to of the GPDO, their lessee; and,
- 2) the development must be on operational land; and,
- 3) the development must be required for either (a) the purposes of shipping, or (b) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking; and,
- 4) the development must not be excluded by Schedule 2, Part 17, Class B, paragraph B1 of the GPDO.

4.16. Essentially, for the developer to rely on the GPDO to carry out the development, they must comply with each of the preceding tests. A failure to pass any one test will require that the said works cannot be considered to be permitted development within Schedule 2, Part 17, Class B of the GPDO. Each test will now be examined for its applicability to the development at Wapping Pier

Tests 1 & 2: The question of statutory undertaker & operational land

4.17. The PLA is without doubt a statutory undertaker, as defined in Section 262 (1) of the 1990 Act, which states that:

*“Subject to the following provisions of this section, in this Act “statutory undertakers” means persons authorised by any enactment, to carry on*

*any railway, light railway, tramway, road transport, water transport, canal, inland navigation, dock, harbour, pier or lighthouse undertaking, or any undertaking for the supply of hydraulic power and a relevant airport operator (within the meaning of Part V of the Airports Act 1986”.*

- 4.18. Upon request from the Council’s legal advisors, Trowers and Hamlins, the PLA has produced a copy of the licence and its subsequent amendments that covers the relationship between the PLA and WRC. This now removes the earlier doubts that have existed and clarifies the relationship on this crucial point. It is now possible to establish beyond doubt that WRC do not benefit from permitted development rights, as they are not and have never been a lessee of the PLA at Wapping Pier. That is to say, that although WRC could not themselves undertake an act of permitted development pursuant to Schedule 2, Part 17, Class B of the GPDO; WRC can however make use of a structure which has been placed by the PLA or a PLA lessee using those permitted development rights and that party (ie PLA or their lessee) have “instigated” the use, provided that the subsequent use by WRC does not fall outside the purposes for which development was originally permitted.
- 4.19. Wapping Pier is “on” operational land for the purposes of the test for the applicability of permitted development rights provided the development is carried out by the PLA. The plan on page 4 of this Report is considered to be the crucial instrument to clarify this measure. The PLA owns all of the riverbed and the foreshore to the Mean High Water Mark in the vicinity of the Pier (Port of London Act 1968), with the exception of those areas coloured green on the plan, prepared by the PLA in 1954 and indicating that the part of the land coloured green on the plan is owned by the Bridewell Hospital (which the PLA has indicated is now a trust which owns The King Edward's School, Witley, Surrey). It is evident from this plan that Tunnel Pier is a significant distance outside the “green land” owned by the Bridewell Hospital and that by extension, given the current alignment of Tower Pier and the Downstream Collar Barge in relation to Tunnel Pier, that they would also be without any doubt well outside the green land too.
- 4.20. An argument has been raised by objectors that the extent of the ownership residing with the Bridewell Hospital includes the “land” at Wapping Pier. Firstly, the said section of legislation that implies there is any issue of doubt – section 100 of the Port of London (Consolidation) Act 1920 – has been repealed. Secondly, the phrase in question is “in front of or immediately adjacent to”. Clearly, one must consider the words and their effect in determining the extent to which the exclusion has any bearing on the issue of the PLA’s ownership of land at Wapping Pier.
- 4.21. The meaning of “in front of” and “adjacent to” means a portion of area close to the said point of land. It is a matter of interpretation based on judgement and common sense as to the application of “in front of”, that could in the extreme apply to land on the opposite bank of the river

which is in front of in the literal sense. So, it is a matter of judgement, as to how far does “in front of” apply. In terms of the assessment of the term “adjacent to”, it is considered the same arguments apply.

- 4.22. As imprecise as these terms may be, it would not be reasonable to ascribe the meaning that the land over which Wapping Pier sits, given its distance from the riverbank, could be reasonably construed to be “in front of” and “adjacent to” that riverbank. Moreover, the exclusion is now defunct given the repeal of this section of the legislation. Therefore, there is no issue with the status of the land on which the Pier lies being under the operational control of the PLA and therefore their right to carry out permitted development under the terms of the GPDO.
- 4.23. The conclusion therefore is that the PLA are a statutory undertaker and the land in question is operational land. Part 17 of the GPDO is therefore available for the PLA (or their lessees) to use to undertake development(s) required for the permitted purposes or activities described in Class B of Part 17.

#### Test 3: The nature of the use

- 4.24. The question of whether the development or each act of development (ie the placement/construction of each element of the Pier) was required for the purposes of shipping or in connection with the various activities specified in Schedule 2, Part 17, Class B sub-paragraph (b) of the GPDO will be examined later in this Report.

#### Test 4: Paragraph B1 exclusions

- 4.25. None of the criteria set out in paragraph B1 are applicable to the development, therefore it is not excluded by Schedule 2, Part 17, Class B, paragraph B1 of the GPDO.

#### **Town and Country Planning (Environmental Impact Assessment) Regulations 1999 (the “1999 Regulations”)**

- 4.26. The 1999 Regulations are interpreted in the context of the European Council Directive 85/337/EEC, which came into force in England in 1988, as amended by the subsequent Directive 97/11/EC, which came into force on 14 March 1999.
- 4.27. Projects of the types listed in Annex I to the Directive must always be subject to EIA. Projects of the types listed in Annex II must be subject to EIA whenever they are likely to have significant effects on the environment. A determination of whether or not EIA is required must be made by the LPA for all projects of a type listed in Annex II.
- 4.28. The 1999 Regulations carry over the provisions of the European Directive into English law, as amended, into Schedule 1 and Schedule 2. So that, development that falls within a relevant description in

Schedule 1 to the Regulations always requires an EIA. For all Schedule 2 development (including that which would otherwise benefit from permitted development rights), the local planning authority must make its own formal determination of whether or not an EIA is required (referred to in the Regulations and the Circular as a 'screening opinion'). This may be done before any planning application has been submitted (regulation 5) or after (regulation 7). In making this determination the local planning authority must take into account the relevant 'selection criteria' in Schedule 3 to the Regulations (Annex B to Circular 02/99). The LPA must make all screening opinions and directions available for public inspection (regulation 20).

### **PPG18 – Enforcing Planning Control**

- 4.29. This investigation has sought to identify whether the works at and use of Wapping Pier are lawful in planning terms and therefore whether it would be expedient to take enforcement action arising from the development of Wapping Pier. Central Government Guidance to LPAs on this issue is set out in PPG18.
- 4.30. PPG18 arose out of the Report by Robert Carnwath QC entitled "Enforcing Planning Control". His recommendations were the basis for the Planning & Compensation Act 1991.
- 4.31. During the passage of the Bill through Parliament amendments were proposed to impose a general duty upon LPAs to ensure compliance with planning controls. These amendments were not accepted because the Government considered that enforcement action should remain within the LPA's discretion. The Government's view appears to be that the integrity of the development control process depends on the LPA's ability to take effective enforcement action when it is expedient and proportionate to do so.
- 4.32. PPG18 sets out that LPAs have a general discretion to take enforcement action when they regard it as expedient. Parliament has given LPAs the primary responsibility for taking whatever enforcement action may be expedient and proportionate, in the public interest.
- 4.33. The Guidance goes on to set out that in considering any enforcement action, the decisive issue for the LPA should be whether the breach of planning control unacceptably affects public amenity or the existing use of land and buildings meriting protection in the public interest.
- 4.34. Furthermore, any enforcement action should always be commensurate with the breach of planning control to which it relates.
- 4.35. Finally, it is relevant to note that the Town & Country Planning Act 1990 (as amended) sets out the specific time limits for the breach of planning control to become immune from enforcement action. These are 4 years in the case of unauthorised structures and 10 years in the case of unauthorised uses.

## 5. THE EVIDENCE BASE

- 5.1. The initial line of enquiry in the investigation was to ascertain the specific information needed to identify the parties involved in the carrying out of the works at Wapping Pier. This was seen as critical to determining the issue of who had done the works and therefore to being able to clarify whether those persons had the right to carry out the works, if planning permission had not been granted expressly, using their permitted development rights.
- 5.2. Information pertaining to the chronology of events leading to the formation of the installations now at Wapping Pier was gained from interviews with the PLA. This was supplemented by further research of archives by the Council's in-house team and by Trowers & Hamblins (the Council's legal advisers).
- 5.3. Statutory Declarations were also obtained by the Council.
- 5.4. The results of this analysis were set out in a written submission that was then sent to both WRC and the PLA, who were each requested to respond to the position as set out in the letters dated 16 February 2006 and 23 February 2006 respectively.
- 5.5. Whilst these lines of enquiry greatly assisted in certain respects, it appeared to the investigation team that the issues were somewhat more involved and turned on greater detail. The initial conclusions and even the subsequent interim conclusions raised further queries. Following further discussion with Counsel it was deemed necessary to seek further information as to the nature and intensity of the use carried out at Wapping Pier to define whether there has been a material change in circumstances at Wapping Pier such as to amount to a material change in the use of the Pier for the purposes of the 1990 Act.
- 5.6. In order to gather evidence for assessing whether there has been any material change in the use of Wapping Pier, a questionnaire was circulated to various local interests, the PLA and WRC.
- 5.7. This questionnaire sought information on the following, as a guide to the factors that may determine whether there had been any material change of use at Wapping Pier. The information sought was based on the particulars pertaining in 1995, 2000 and 2005, as the earliest date is prior to 10 years ago and the intervening dates may furnish information on the timing of any change in circumstances:
  - 1) average number of vessels moored at the Pier;
  - 2) approximate number of staff working at the Pier;
  - 3) average number of daily deliveries;
  - 4) nature of any works on the vessels;

- 5) approximate time of operations at the Pier;
- 6) approximate number of vehicle visits;
- 7) approximate number of pedestrian visits;
- 8) approximate number of meals;
- 9) approximate amount of rubbish disposed of per day;
- 10) use of mess facilities.

## **Findings**

### Regarding evidence of the provenance of Tunnel Pier

- 5.8. Based on the advice of the PLA, it is understood that Tunnel Pier was originally constructed prior to 1850. This advice is supported by an engraving published in the Illustrated London News showing Queen Victoria and the Coburg family landing at Wapping/Tunnel Pier circa 1850, which is held in the London Maritime Museum. No case has been made by others that this matter is in question. Therefore, and essentially, it is accepted that Tunnel Pier pre-dates the advent of planning regulations in 1948.
- 5.9. The PLA's records also contain a 1937 photographic survey, reproduced in London's Lost Riverscape, showing Wapping/Tunnel Pier comprised two offices – one clearly marked for the use of the Port of London Authority – the other marked for use by WHJ Alexander Ltd. WHJ Alexander are understood to have been a tug company operating on the River Thames.
- 5.10. That part of the Pier occupied by WHJ Alexander Ltd is understood to have been used as an operational base. It is considered likely, based on information received from the PLA, to have been used for the following purposes -
  - a) for employees when “clocking-in” to work;
  - b) as accommodation for employees; and,
  - c) as offices to assist in the administration of the works undertaken at the Pier.
- 5.11. In June 1979, the PLA issued a works licence to WRC for Wapping Pier (i.e. the Tunnel Pier pontoon, two dolphins, fixed and tidal brows and support dolphin.) The original licence was updated over the years. A copy of the original licence and the amendments was obtained by the Council from the PLA.
- 5.12. WRC has used Wapping Pier (Tunnel Pier) since 1971. This has been evidenced by a Statutory Declaration by Alan Woods on behalf of

WRC. Having undertaken a due and proper search, the PLA has indicated that there is nothing in their records that would indicate anything contrary to this. No evidence has been forwarded by others to suggest any other position in respect of the commencement of use at Wapping Pier by WRC.

- 5.13. The PLA has confirmed that, having undertaken due and proper enquiries, it has no records of any notices having been served by the PLA on WRC requiring alteration to Wapping Pier (Tunnel Pier). The PLA also has no records of WRC having undertaken any external works to Wapping Pier (Tunnel Pier). It appears, on the evidence, that since the commencement of their use of Tunnel Pier, WRC have only carried out routine maintenance and painting. The Council has not seen any evidence which would contradict this.

Regarding evidence of a change of use of Wapping Pier

- 5.14. The use of Tunnel Pier at that time (ie since 1971) is said by Alan Woods, in his Statutory Declaration of 3 October 2005, to be as “an operational base”. This contrasts with the terms of the licence granted to WRC by the PLA and with the statement of the PLA in their letter dated 11 August 2004, which refers to an application to “regularise” the position at Wapping Pier and also an indication that WRC are in breach of their works licence. In this letter there are two different terms to describe the use of Wapping Pier by WRC and the letter indicates that its intention is to regularise the position at Wapping Pier (so that it would be clear its use was as an “operational base”). This could indicate that there has been change of use since 1971.
- 5.15. An earlier letter from the PLA dated 8 June 2005, indicates that it is sensible to conclude that there has been change from a mere mooring facility at Wapping Pier to use by WRC of Wapping Pier as an operational base. The letter states that the earlier opinion from the Council’s Counsel (on 3 May 2005) “appears eminently reasonable” and the PLA does not disagree with the position.
- 5.16. Moreover, the Statutory Declaration of Thomas Woods sets out 2 points: firstly that WRC uses the pier known as Wapping Pier as its operational base and secondly WRC has used the Pier since first occupying the said Pier pontoon since 1971. This declaration does not state that WRC started to use Wapping Pier as their operational base in 1971. [NB: It could not have stated this in any event; as Thomas Woods was not born in 1971; hence the words "I understand that" in his declaration.]
- 5.17. Insofar as that Statutory Declaration by Alan Woods sets out any evidence that the use as an operational base commenced in 1971, it must be contrasted with the other statements by the PLA, other evidence received and the Statutory Declaration by Thomas Woods. It is also important to note that no detail is given as to the nature of the activities taking place over the relevant period of time, or what he



means when he describes its use as an “operational base”. For those reasons, it would be reasonable for the Council to treat with some caution the statement in the Statutory Declaration by Alan Woods in respect of the use as an operational base commencing in 1971, bearing in mind the other evidence received.

- 5.18. In planning law a change of use has to be material to need planning permission. This will be considered later in this report.

Regarding evidence of the provenance of Tower Pier

- 5.19. The PLA have advised that Tower Pier was originally located in the Pool of London upstream of Tower Bridge adjacent to Lower Thames Street. Evidence of the siting of the Pier can be found in a photograph, from the MacFee collection, “Tower Bridge seen from the north (City) bank of the Thames, with the old Tower Pier (opened in 1929) to the right of the picture”, held in the archives of the London Maritime Museum. Tower Pier is also shown in its original location in a survey photograph reproduced in “London’s Lost Riverscape”.
- 5.20. The PLA have also advised that Tower Pier, in its original location, was used by the PLA as a pier for the mooring of, and loading and unloading of vessels, and the passing of pedestrians from the foreshore to vessels using the Pier. The paragraph above the photograph in London’s Lost Riverscape indicates that the Pier was also used as headquarters for the PLA’s Harbour Master of the Upper Reaches i.e. an administrative function. PLA records indicate that the Pier, in its original location, included a kitchen, mess facilities and ancillary storage stage.
- 5.21. The PLA have advised that in preparation for the Millennium celebrations, Tower Pier was floated down river from its original berth to be fixed to the eastern (downstream) end of Tunnel Pier in July 2000 under the direction of the PLA through its Marine Services officer, Captain Geoff Buckby. The PLA state that such work was undertaken for the purposes of shipping pursuant to the powers of the PLA under the Port of London Act 1968 and substantially completed on 5 July 2000. A statutory declaration by Captain Geoff Buckby to that effect has been submitted to the Council.
- 5.22. The PLA have also advised that following the completion of the above work by the PLA, the PLA granted a licence for the replacement of the collar barge at the downstream end of Wapping Pier (Tunnel Pier) by the ex Tower Pier pontoon and two ground moorings, as approved by the PLA and pursuant to the plan no. 125.0535 from the PLA to WRC issued on 27 November 2000, being an amendment to the existing licence between the PLA and WRC dated 26 June 1979.
- 5.23. It is understood, based upon the evidence and on discussions with the PLA, that the use of Tower Pier by WRC commenced following its installation in July 2000 and that such use was subject to the existing

licence between PLA and WRC dated 26 June 1979. It is also understood that WRC has not undertaken any development in terms of "...the carrying out of building, engineering, mining or other operations in, on, over or under land..." (as defined in the 1990 Act (as amended)) to the Pier since the date of its placement in its current location. It appears, on the evidence that since the commencement of their use of Tower Pier in its current location WRC have only carried out routine maintenance and painting. The Council has not seen any evidence which would contradict this.

Regarding evidence of the provenance of The Dolphin (two Steel Piles)

- 5.24. The Dolphin comprises two steel piles that derive from the Planning Permission granted by LBTH by notice ref: PA/00/0085, dated 30 March 2000, for the replacement of existing timber pontoon guides with two new steel piles to secure the pontoon. This decision notice is a public document on the Statutory Register of the LPA.

Regarding evidence of the provenance of The Downstream Collar Barge

- 5.25. PLA records indicate that the "Downstream" Collar Barge was previously used as a storage barge. The PLA has indicated that such barges are often used to transport municipal waste up and down the Thames. Also known as a dumb-barge, as it has no power to manoeuvre by itself. It was formerly used by Cleanaway Limited, who moved rubbish up and down the river in it, until acquired by the PLA, who subsequently sold it to WRC.
- 5.26. The PLA have advised that on 7 August 2003 it undertook works comprising the laying of moorings and installation of a Collar Barge to be linked with the downstream end of the Tower Pier pontoon at Wapping Pier.
- 5.27. The PLA have also advised that these works were deemed subject to the licence between the PLA and WRC dated 26 June 1979. The Council has been advised that the use of the Collar Barge by WRC pursuant to the licence commenced following its installation on 7 August 2003 and is not aware of any evidence to the contrary.
- 5.28. The PLA have advised that for a short period of some three weeks, in early 2006, the Collar Barge was re-sited alongside Tower Pier on its rivershore side, whilst WRC undertook some internal works to the barge and upon completion of those works they returned the Collar Barge to its position on the downstream end of Tower Pier.

Regarding evidence of the provenance of The Berthing Dolphin

- 5.29. PLA records indicate that in July 1997 WRC placed a new three pile berthing dolphin upstream of Wapping Pier (Tunnel Pier end), which is thought to be required to accommodate the mooring of the WRC vessel

mv Silver Sturgeon. The PLA issued a supplementary licence in relation to these works. No application for planning permission was made to the Council.

#### Regarding evidence of Land Ownership

- 5.30. The PLA owns all of the riverbed and the foreshore to the Mean High Water mark in the vicinity of Wapping Pier (comprising Tunnel Pier, Tower Pier, the Downstream Collar Barge and the Berthing Dolphin), with the exception of those areas coloured green on the plan prepared by the PLA in 1954 entitled “Bridewell Hospital – Reserved Foreshore”. PLA records indicate that that part of the plan coloured green is owned by the Bridewell Hospital, which is now a trust and owns The King Edward’s School, Witley, Surrey. The limited extent of the land not in the ownership of the PLA is very clear.

#### Regarding the relevant planning unit

- 5.31. The first step in assessing whether there has been a material change of use is to establish the relevant planning unit, having regard to the approach described in Burdle v. Secretary of State for the Environment [1972] 3 All ER 240 at p. 244 per Bridge J. In this case, it is not considered to be an entirely straightforward exercise.
- 5.32. Looking at the existing position, the relevant planning unit is most likely to be held to be the Pier as a whole. The various parts of the Pier are in common occupation, used for a single identifiable purpose, and are neither physically or functionally separable.
- 5.33. The Pier was, however, noticeably smaller in 1996. Since that time, the following parts of the Pier have been added: the three pile upstream berthing dolphin, the Tower Pier pontoon and the downstream collar barge. The addition of those elements resulted in an expansion of the planning unit. For reasons explained below, this expansion of the planning unit is relevant to the issue of material change of use.
- 5.34. In the case of Fidler v. First Secretary of State [2004] EWCA Civ 1295, the Court of Appeal held that in determining whether there had been a material change of use, a relevant consideration would be whether the extension of an existing use onto other land had resulted in the creation of a new planning unit. In his judgment, Carnwarth LJ expressly endorsed the reasoning of Richards J at first instance, who had reached the same conclusion.
- 5.35. In his judgment, Richards J had accepted as correct the following submissions made by counsel for the First Secretary of State:

*“70. As to the planning unit, there is no issue over the inspector’s conclusions concerning the existing planning units at the site ... and it is common ground in particular that Notice 1 was properly directed to the area of land identified as planning unit C. The inspector’s use of*

*that planning unit as a tool for assessing the materiality of any changes during the ten year period is orthodox and correct: the question is whether the mixed use of that planning unit at the date of the notice involves a material change from uses previously carried on during the ten year period. The fact that there were different planning units at the beginning of the period does not necessarily mean that there has been a material change of use, though it tends to suggest it. In any event the changes leading to the creation and extent of the present planning unit are matters properly taken into account” (emphasis added).*

5.36. At paragraph 76 of his judgment, Richards J found as follows:

*“76. The inspector was right to consider the planning unit and the use as they existed at the date of the enforcement notice, and to consider whether that use was materially the same as at the beginning of the relevant period or whether there had been a material change of use. ... He did not treat the change in the planning unit as necessarily giving rise to a material change of use, but looked at the change in the planning unit, and the related question of how the site was being used, as part of his overall consideration of whether there had been a material change of use. This was a lawful approach” (emphasis added).*

5.37. Before turning to examine the facts of this case, there is one other aspect of the decision in Fidler that should be noted. In the Court of Appeal, Carnwarth LJ made some observations about the applicability of the approach enunciated by Donaldson LJ in Kensington and Chelsea RBC v. Secretary of State and Mia Carla Ltd. [1981] JPL 50. Those instructing me will recall that in the course of his judgment in that case, Donaldson LJ criticised the use of the term “intensification” in the context of material change of use, and added:

*“If the planners were incapable of formulating what was the use after intensification and what was the use before intensification then there had been no material change of use”.*

5.38. Whilst Carnwarth LJ did not question the correctness of that decision on its facts and in the then legal context, he suggested “*considerable caution before applying statements from pre-1991 cases to the new statutory regime*” because one of its purposes was to give a clear signal to the courts and others that the more legalistic features of current case-law and practice can be abandoned.

5.39. In this case, it would appear that the physical expansion of the Pier from 1997, and the resulting expansion of the planning unit, has facilitated intensification of its use. In particular, the addition of the Tower Pier pontoon in 2000, with its offices and kitchen facilities, seems to have enabled WRC to change the scale and nature of its use at the Pier.

5.40. The task of assessing whether a change of use has taken place in these circumstances is not an exact science, and involves the exercise

of judgment on the facts as they are known. On the facts, it is considered that there has been an intensification of WRC's use, combined with and facilitated by a significant expansion of the relevant planning unit, and this has been such as to change the overall character of the use from mooring of vessels and ancillary activities to use as an operational base. As a matter of fact and degree, it is considered that this has amounted to a material change of use. The following section sets out the factors that have led to this conclusion.

#### Regarding evidence of any Material Change of Use

- 5.41. It appears, on the information received from the Sayers and from WRC in response to the written submission made by the Council as mentioned in paragraph 5.4 of this report that the number of employees working at the Pier increased between 1995 and 2005. The Sayers and WRC give similar figures for estimates of employees in 2000 (28 versus 35). However, they give very different estimates of the number of employees present at the Pier in 2005 (30 versus 50-80). Whilst WRC ought to be more able to provide such information on their own employees, it has been noted that their response is qualified, in that for each time frame they only refer to numbers of "full-time" staff and add "plus waiters/waitresses". It is most probably these types of staff that would be more likely to increase in number if there are more boats and extended hours of operation.
- 5.42. The information received from the Sayers and from WRC in response to the written submission made by the Council as mentioned in paragraph 5.4 of this report suggests that there was no meal preparation at the Pier in 1995 but since 2000 meals have been prepared in kitchens on board the boats. The addition of Tower Pier in 2000 provided on-pier cooking facilities that were not available prior to that date.
- 5.43. So, whilst, neither figure for 2005 is regarded as conclusive, it is reasonable to conclude that there has been an increase in the number of people employed and that the nature of work they are undertaking has changed i.e. office and administration functions have been added and there has been an expansion of catering activity since 2000 (with the addition of Tower Pier).
- 5.44. The introduction of the Downstream Collar Barge indicates an increase in the generation of waste and a need for more storage space.
- 5.45. WRC suggests that the number of vehicle visits has dropped between 2000 and 2005 from 12 visits-a-day to 4. However, looking at the number of meals being prepared and the general increase in activity on the Pier, it might be reasonable to assume that an increase in vehicles would have taken place. Because of this apparent discrepancy; WRC were asked to explain the drop in vehicle numbers. By way of letter, dated 2 October 2006, WRC explained that prior to 2000 they also supplied their restaurant in Tower Hill – stocked and returned from the

Pier itself – but this ceased trading and so deliveries are no longer required at the Pier in relation to the restaurant. In addition to this; following the US 9/11 incident WRC suffered a heavy fall in trade (from which it has made a steady recovery); and WRC has discontinued its lunchtime cruise and instead concentrates on corporate, evening entertainment events.

- 5.46. Moreover, in terms of the whether any material change of use has occurred, it must also be noted that the PLA has indicated in letters to the Council that it intended to regularise the planning position at Wapping Pier. The original licence (dated 26 June 1979) produced for this investigation does state that the use of the Pier by WRC is for mooring of vessels.
- 5.47. That there are and have been two uses of the Pier, being a change from an initial use as a "mooring facility" to a use over time as an "operational base" for river cruises is suggested by various letters and documents in the Council's possession. The following factors in particular have led to this view:
- a) The facilities put in place from 1997 onwards have enabled more and bigger vessels to be serviced, and have facilitated the introduction of a number of different and additional functions, most notably meal preparation on a substantial scale and what might be described as 'head office' functions.
  - b) The number of employees working at the Pier appears to have increased significantly between 1995 and 2005 as these changes have taken place. In addition, the nature of the work some of those employees have been undertaking has also changed because of the introduction of the different and additional functions referred to above.
  - c) The placement of the downstream collar barge indicates a consequential increase in the need for storage space.
  - d) On 11 August 2004, the PLA wrote to the Council in connection with WRC's use of the Pier. In that letter, the PLA stated:

*"... I would inform you that WRC is currently in breach of a number of its obligations under the extant works licence. It is endeavouring to remedy these breaches within the PLA's stated timescale, and in particular applying to the PLA to vary the use of the works at Wapping Pier as currently defined within the works licence.*

*Should that proposed variation be granted by the PLA, the use of the works within the licence will be defined, instead of currently being limited to the mooring of commercial vessels and workboats, as follows: "not without the written consent of the PLA (which so far as is lawful shall not be unreasonably withheld) to use the works as an operational base in connection with the licensee's passenger*

*boat business”. This definition of use will accord with comparable facilities elsewhere on the tidal Thames, notably those operated by City Cruises at Cherry garden Pier, opposite Wapping Pier in Southwark”*

*(emphasis added).*

In view of the PLA’s familiarity with WRC’s use over the years, and the fact that the PLA evidently considered that there had been a change of use such as to require a change in the relevant clauses of WRC’s licence, it reasonable to attach some weight to this expression of opinion.

- 5.48. In the initial instructions provided to Counsel in 2005, the instructing solicitor said that:

*“Although the Pier has previously been used for mooring river barges, for many years its primary activity was for the mooring of vessels used for sightseeing on the river. The Pier has been extended in recent years with the agreement and cooperation of the Port of London Authority (“PLA”) to accommodate the enlarged fleet of vessels operated by Woods River Cruises ... Activities at the Pier have increased during recent years turning it from a mooring facility to an operational base for WRC. The original PLA licence related to the mooring function, but the PLA has been aware of and accepted the changing function.”*

- 5.49. Counsel addressed this matter at paragraph 40 of the Opinion as follows:

*“Similarly, the change in the use of the Pier described in my instructions – from the mooring of vessels used for sightseeing on the river to use as an operational base by WRC – would in my view be likely to constitute a material change of use [footnote: having regard to the different character of the use, and its land use implications – in particular to the impact that the more intensive use appears to be having on the amenities of local residents]”.*

- 5.50. A copy of the Opinion was provided by the Council to the PLA, and in a letter dated 8 June 2005 the PLA expressed the view that the Opinion “appears eminently reasonable”. No issue was taken with the passage quoted above, or indeed any other part of the analysis contained in that document.

- 5.51. A letter from the PLA, dated 8 June 2005, again indicates that it is sensible to conclude that there has been change from a mere mooring facility at Wapping Pier to the use by Woods River Cruises of Wapping Pier as an operational base. The letter states (in paragraph 2) that the earlier opinion received from Counsel “appears eminently reasonable” and does not disagree with the position.

- 5.52. A letter from the Council to the Ombudsman, dated 14 September 2005, indicates that in the view of its author there has been a change of use of the Pier from the mooring of vessels to an operational use.

*The relevant statement appears in paragraph 2 of the letter, which states that "Activities at the Pier have increased during recent years, turning it from a mooring facility to an operational base for WRC, but the PLA had been aware of and have accepted the changing function..."*

- 5.53. Those opinions need to be compared/contrasted with the statutory declaration by Alan Woods which refers to the use of Wapping Pier as an operational base since 1971. The relevant paragraph is paragraph 2 which states that – "Woods River Cruises Limited uses the pier known as Wapping (formerly Tunnel) Pier pontoon, which is positioned as indicated and coloured red on the plan at Annex A hereto, as its operational base, and, to the best of my knowledge and belief, It is understood that Woods River Cruises Limited has used the pier known as Wapping (formerly Tunnel) Pier pontoon since first occupying the said pier pontoon in 1971;"

- 5.54. This view of the facts is different from those expressed in the other documents mentioned above. As mentioned above, it is also not particularised in any way.

- a) As regards evidence received from the complainants, Mr and Mrs Sayers, dated 6 April 2006:

- the pictures etc in Mr and Mrs Sayers' evidence of use indicates that in 1995 the Wapping Pier consisted of only Tunnel Pier and this contained two offices and had two full-time office staff working at it; and
- in 2000 the Tower Pier was floated downstream of Tunnel Pier and this added a kitchen, a mess facility, and a head office function to Wapping Pier; and
- when the head office function was moved to Wapping Pier this appeared to allow for a change in the function from mooring to an operational base because the head office function, as such, appears to have moved to the site of the Pier itself; and
- as well as the head office function, WRC, on the evidence, seem to have now commenced preparing meals on the Pier itself.

- 5.55. The Council needs to weigh the relevant evidence and arrive at its own view on the balance of probabilities.

- 5.56. From the evidence received it is reasonable to conclude that there has been a change from the function of mooring vessels at a pier which had



merely two staff undertaking a number of office functions; to a change in use to contain a head office function, kitchen facilities and a bigger overall operation. As a matter of judgment, it is considered that the intensification of use which has occurred has been such as to alter the character of the use and its land use impact sufficiently to amount to a material change of use.

- 5.57. In the light of the relevant legal authorities, it is apparent that if one can apply a different label before and after to the function of a particular planning unit then this is consistent with a change in the character of the use of that planning unit. It may not be necessary to be able to apply a different label, but if it can be done that is indicative that there has been a material change of use. For the reasons set out above, it is considered that in this case it is possible to apply a different label before and after the intensification of use, namely from use as a mooring facility to use as an operational base. Therefore there has been an intensification of use amounting to a change in character at the planning unit consisting of Wapping Pier. The event which appears to have caused this was the placement of Tower Pier (which happened in 2000) which facilitated the moving of the head office function to the Pier and facilitated a greater level of catering activity and therefore enabled the change to an operational base as opposed to mere mooring.

## 6. ANALYSIS OF THE EVIDENCE

- 6.1. The issues arising from the complaints set out in paragraph 3.2 above are:
- 1) the case of the lawfulness of the works of installation concerning the various elements at Wapping Pier - the first issue
  - 2) whether there has been, for the purposes of section 55 of the 1990 Act "*...the making of any material change of use in the use of any buildings or other land*" – the so called "material change of use" at Wapping Pier – the second issue
  - 3) whether the works and/or any material change of use of Wapping Pier should have been subject to an EIA – the third issue

### **The First Issue – are the Wapping Pier structures lawful?**

- 6.2. This issue turns on whether there has been development in terms of Section 55 of the 1990 Act and whether there is any formal planning permission for the carrying out of the works comprising the separate elements of Wapping Pier, as set out in Section 2 above. It is appropriate to consider each element of Wapping Pier separately, as each represents an individual operational act of development, but first the applicability of the permitted development rights contained in the GPDO in relation to the installation of the various elements of Wapping Pier need to be examined.
- 6.3. The permission in Schedule 2, Part 17, Class B of the GPDO is for "*...dock, pier, harbour, water transport, canal or inland navigation undertakings...*" by a statutory undertaker on operational land. There is no question from the evidence that as a structure, the constituent elements of Wapping Pier are anything other than a pier and that Pier is owned and controlled by the PLA, who is the relevant statutory undertaker and that the land is operational land as indicated in earlier paragraphs above in this Report.
- 6.4. The question is whether the Pier has been provided by the PLA (or its lessees) as an act of development required:
- 1) for the purposes of shipping; or
  - 2) in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods at a dock, pier or harbour, or with the movement of traffic by canal or inland navigation or by any railway forming part of the undertaking.
- 6.5. The term shipping is not defined in planning legislation. It is a very broad term and from the evidence there seems to be no doubt that the Pier is required for the purposes of shipping and/or in connection with the embarking, disembarking, loading, discharging or transport of passengers, livestock or goods. The fact other activities may take place

does not detract from that conclusion, as those other activities would be ancillary in planning terms to a use for the purposes of shipping.

- 6.6. No issues raised by the restriction in Schedule 2, Part 17, Class B, paragraph B1 of the GPDO are applicable in relation to the installations at Wapping Pier.
- 6.7. WRC are not a statutory undertaker, nor are they a lessee of a statutory undertaker and therefore they do not benefit from the rights in Schedule 2, Part 17, Class B of the GPDO to carry out any of the operational development forming Wapping Pier.

**Conclusion:**

- (1) Works and operations (constituting development) carried out by the PLA (a statutory undertaker) on land at Wapping Pier (operational land) required for the permitted purposes set out in Schedule 2, Part 17, Class B of the GPDO would be 'permitted development'.**
- (2) Works and operations (constituting development) carried out by WRC (a licence holder) cannot benefit from 'permitted development' rights under Schedule 2, Part 17, Class B of the GPDO.**

- 6.8. I will now consider each element of Wapping Pier separately, as each represents an individual operational act of development.

(a) Tunnel Pier

- 6.9. It is beyond reasonable doubt that Tunnel Pier, the original element of what is now known as Wapping Pier, was built in the 1800s. The evidence suggests that this element was built by the pre-cursor of the PLA, the Thames Conservators.
- 6.10. Comparison of a 1937 photographic survey with the current structure demonstrates that Tunnel Pier has remained essentially the same since 1937.

**Conclusions:**

- (3) The position and structure of Tunnel Pier pre-dates the advent of planning controls in 1948 and, as such, is therefore lawful.**
- (4) There have been no works constituting development (for the purposes of section 55 of the 1990 Act) on Tunnel Pier since 1948 of which the Council, having undertaken due enquiries, is aware. Therefore, it is reasonable to conclude that there is no breach of planning controls regarding its current form at this site.**

(b) Tower Pier

- 6.11. As described at 5.19 above, Tower Pier was formerly stationed in the Pool of London upstream of Tower Bridge. The original pier structure was refurbished and moved downstream to Wapping.
- 6.12. Tower Pier was moved by the PLA and moored at Wapping with the operation completed on 5 July 2000. A statutory declaration to this effect has been provided to the Council's investigation team.
- 6.13. As originally constructed, Tower Pier comprised two cabins mounted on a hull. The evidence suggests that there have been no material works to alter the appearance, size or shape of the superstructure since its placement downstream of Tunnel Pier by the PLA on 5 July 2000.

**Conclusions:**

- (5) *The current position of Tower Pier commenced in July 2000. The development (ie the mooring of Tower Pier downstream of Tunnel Pier) was carried out by the PLA. The PLA, as a statutory undertaker, had the benefit of permitted development rights pursuant to the GPDO to position the works on their operational land.***
- (6) *There have been no works constituting development (for the purposes of section 55 of the 1990 Act) on Tower Pier since it was moved to its current position in 2000 of which the Council, having undertaken due enquiries, is aware. Therefore, it is reasonable to conclude that there is no breach of planning controls regarding its current form at this site.***

(c) New Steel Piles

- 6.14. The Steel Piles benefit from express planning approval and so these works are lawful.

**Conclusion:**

- (7) *The steel piles are authorised with the benefit of full planning approval.***

(d) Downstream Collar Barge

- 6.15. This element of Wapping Pier was installed by the PLA in 2003. A statutory declaration to this effect has been provided to the Council's investigation team.

**Conclusion:**

**(8) The mooring of the downstream collar barge downstream of Tower Pier was undertaken in August 2003. The development was carried out by the PLA. The PLA, as a statutory undertaker, had the benefit of permitted development rights pursuant to the GPDO to position the works on their operational land.**

**(e) Berthing Dolphin**

6.16. The installation of the Berthing Dolphin was undertaken by WRC in July 1997. There can be no doubt now that these works cannot be deemed to benefit from any permitted development rights. No record has been found of formal planning permission for these works.

**Conclusion:**

**(9) The instalment of the berthing dolphin by WRC in 1997 was unauthorised. However, the power to take any enforcement action lapsed in 2001, 4 years after it was installed, in accordance with section 171B of the 1990 Act.**

**The Second Issue – has there been a material change of use?**

- 6.17. The starting point for examining whether there has been a material change of use is to establish the relevant planning unit.
- 6.18. The extension of Tunnel Pier by the addition of Tower Pier and the subsequent addition of the Downstream Collar Barge raises the issue of the “planning unit”. It is considered that there is a particularly strong case for considering the whole complex as a single planning unit, as each part is in the same ownership and the specific relationship of each part only makes sense when seen as part of a complex in use by a single body.
- 6.19. In 1997 the planning unit was extended by the addition of the upstream Berthing Dolphin. In 2000 the planning unit was further extended by the addition of Tower Pier and again in 2003 when the downstream Collar Barge was added.
- 6.20. The various parts of the Pier are in common occupation, used for a single identifiable purpose, and are neither physically or functionally separable. The Pier has been extended from 1997 to 2003 in three phases and this expansion of the planning unit is relevant to the issue of a material change of use.

**Conclusion:**

**(10) The whole of the structure known as Wapping Pier is the planning unit for the purpose of assessing the whether there has been a material change of use. The planning unit was**

***extended in three phases between 1997 and 2003 by the addition of the upstream Berthing Dolphin in 1997, Tower Pier In 2000 and the downstream Collar Barge in 2003.***

- 6.21. As set out above, WRC do not enjoy 'permitted development rights', in their own right, as it is now clear they are not (and never have been) lessees of the PLA. The issue is whether WRC has undertaken an act of development, and therefore whether it needs planning permission.
- 6.22. It is considered that the intention of the Secretary of State in formulating the terms of the GPDO was to expressly and exclusively define the scope for permitted development. The thrust of the GPDO is to establish the scheme of development that could be carried out by particular parties without necessarily having recourse to the Local Planning Authority. These rights were to be enjoyed by those parties clearly identified by the specific terms of that particular class of development. This means that the permitted development has to be provided and first used by the specified parties (ie PLA or their lessees).
- 6.23. The provisions of Schedule 2, Part 17, Class B of the GPDO do not however equate to a personal planning permission so that the facilities created can only be used at any time thereafter by those parties. Provided that there has been no material change of use, the subsequent use of the relevant planning unit for the same purposes or activities by another party would not constitute development, nor would it infringe any of the clauses in Schedule 2, Part 17, Class B of the GPDO.
- 6.24. Whilst it can be shown that the PLA lawfully implemented the 'operational development' of both Tower Pier and the Downstream Collar Barge, it does not follow that the PLA instituted the use of those parts of the Pier.
- 6.25. Counsel's advice has been sought on this issue, and he has advised that whilst there is considerable uncertainty as to the position in law, on balance his view is that if WRC has instituted a change of use, that is in itself an act of development, which if not authorised (either under the GPDO or by the grant of planning permission) is unlawful. The authorisation given by the GPDO for the carrying out of development for these purposes is limited to the PLA and its lessees.

***Conclusions:***

***(11) The installations of the Tower Pier pontoon and the Downstream Collar Barge were carried out under permitted development rights derived from Schedule 2, Part 17, Class B of the GPDO but the PLA did not itself institute any particular use of the facility thus created. The use of these structures for purposes defined in Schedule 2, Part 17, Class B of the***

***GPDO persists in planning terms as the lawful use and remains to be taken up by the PLA or their lessees.***

***(12) The material change of use instituted by WRC, who are now known without doubt to be licensees, of Tower Pier and the Downstream Collar Barge commenced after 1996 (ie in 2000). Therefore, as there is no express planning approval for the material change of use that has taken place, and it is not considered to be authorised by the GPDO, it is considered to be unlawful. There is no immunity from enforcement action, as the current activities on Tower Pier and the Downstream Collar Barge have not continued for more than 10-years.***

- 6.26. However, the situation at Wapping Pier is somewhat complex, as the original structure – Tunnel Pier – pre-dates the post-war planning legislation system. As set out above, the use of Tunnel Pier for shipping purposes is lawful, as such WRC did not need to seek formal planning permission to commence using it for their operations. As stated above, the Berthing Dolphin is also lawful as a structure and because of that its use would be lawful as well, as the power to take enforcement action in respect of it has lapsed (see para 6.16).
- 6.27. In terms of the rest of the complex, although the structures are lawful, the material change in use of the Pier that they have facilitated, by someone other than the PLA or their lessees, is, on balance, not. As the material change of use took place fewer than 10 years ago, the development is not immune from enforcement action.
- 6.28. It is important now to identify precisely what the new use at Wapping Pier is in order to judge whether it amounts to a material change of use.
- 6.29. In addition to any changes directly facilitated by the increased size of the Pier, there may be other changes that are as a result of a change in the nature of the activities undertaken by WRC since 1996 that are materially different to what they did prior to that date. 1996 having been chosen as the date bearing in mind the 10-year time limit for enforcement in section 171B of the 1990 Act.
- 6.30. Tunnel Pier was likely to have been used by WHJ Alexander Ltd as an operational base (see paragraph 5.10 above). Initial use by WRC would appear to have been more in the nature of a relatively simple mooring use. It must be acknowledged that at the time on the structure were (and still are) two buildings capable of use for ancillary offices, mess and other facilities. These also existed when used by WHJ Alexander Ltd. WRC's use of the Pier developed into its current use which is described as an operational base. Caution must be exercised in interpreting too literally the descriptions given to previous uses of the structure only as a mooring, particularly because of the physical facilities that were present.

- 6.31. It is also arguable that given the above, the initial use by WRC could have amounted to a partial take up of the lawful use as an operational base. Whilst this may have been the case, it is considered that due to the wide gap in time between the two occupations, and the need for caution over the interpretation of descriptions, a comparative analysis of the current use against the use 10 years ago is more appropriate to analyse this matter.
- 6.32. The case must be made on an analysis of whether there has been any material change of use of the “planning unit” as a whole. Clearly the planning unit was at the outset originally only Tunnel Pier. That has been shown to be lawful because it is immune from enforcement action due to the effluxion of time. The addition of the Berthing Dolphin has also been shown to be lawful through the grant of a planning permission by the Council. The addition of Tower Pier and subsequently of the Downstream Collar Barge has expanded the planning unit significantly.
- 6.33. It has been shown above that both Tower Pier and the Downstream Collar Barge were installed by the PLA, who benefit from permitted development rights. Therefore, there was no need for formal planning permission for the PLA to physically enlarge the planning unit.
- 6.34. If the PLA (or their lessees) had occupied the structures, then on that count there would have been no breach of planning control, as the institution of the use under those circumstances would have been permitted under Schedule 2, Part 17, Class B of the GDPO. For the same reason there would have been no case to consider on the count of a material change in the intensity of the use of the planning unit. It must also be remembered that in such circumstances (i.e. use by PLA or their lessees) the scope of the lawful uses would be those specified in the GPDO (i.e. for the purposes of shipping etc) a very wide definition.
- 6.35. Because WRC are a licence holder, a material change of use of the planning unit by WRC has a different legal impact than if it was undertaken by the PLA or their lessees. This could be considered to be somewhat anomalous, as the impact need not have been any different had the PLA or their leaseholder occupied the planning unit for the purposes of shipping. Nevertheless, the GPDO only exempts the statutory undertaker and its lessees – and no other class of persons – from the need to seek and obtain planning permission for such development.
- 6.36. It begs the question of what would be the difference were the PLA to grant a lease to their incumbent licence holder? There would be no need for any formal planning approval.
- 6.37. The evidence as to the change in the intensity and nature of the use is not clear cut; for example, there has been only a modest change in the number of craft attending the Pier complex.



- 6.38. It would be difficult to argue that the intensification of use had led to a material change of use on that ground alone. The growth of a business can result in an increase in activity. That growth would not normally be the subject of planning control. What may make the growth a planning issue is whether there has been a material change in the character of the use.
- 6.39. However, it is in the scale of the operation, as well as in the type of activity associated with the Pier that there has been a change in the material circumstances surrounding the planning unit and therefore this is the point at issue in this investigation.
- 6.40. There is a change in number of meals prepared since 2000. It appears that a considerable number of meals are now prepared in kitchens on board the boats. Indeed, on the evidence received, there were no meals prepared on board the boats in 1995. The addition of Tower Pier in 2000 introduced much greater facilities to prepare food on the Pier. So, on this point there is evidence of there having been a material change of use due to a material and significant change in the character of the activities undertaken within the planning unit.
- 6.41. Although the data is not conclusive, it would seem to be reasonable to expect the increased number of meals prepared, and therefore served, to have led to a proportional increase in waiting staff. The increased scale of the operation would also suggest more administration and management activity that would generally lead to more staff to carry out those duties. The impact on residential amenity of the increased comings and goings, and the different activities associated with the increased number of employees and the tasks they are undertaking, must therefore be taken into account.
- 6.42. The capacity to handle significantly more waste was brought about by the installation of the Downstream Collar Barge. The volume of waste is therefore an additional sign of the intensification of the use at the planning unit that is Wapping Pier.

**Conclusions:**

**(13) The GPDO authorised introduction of Tower Pier and the Downstream Collar Barge, which has facilitated the intensification and expansion of the operation. However this more extensive use by WRC (rather than by the PLA or their lessees) requires planning permission because the GPDO does not authorise development in the form of a material change of use by WRC (a licence holder). The PLA or their lessee did not carry out that act of development so as to bring it within the GPDO, and no other planning permission exists for the change of use.**

**(14) There has been a material change in the character and nature of the activities at the Pier, in respect of additional office**

***facilities and the preparation of meals at the Pier, which was made possible by the addition of Tower Pier in 2000.***

***(15) A commensurate increase in staff generally would indicate a growth in the business, but may also result from a material change of use due to the increase in office and catering activity with apparently increased impacts of residential amenity.***

***(16) The introduction of the Downstream Collar Barge in 2003 to handle the greater quantity of waste produced by the operation signifies further evidence of a growth in the business, but not necessarily a material change in the character and nature of activities at the Pier.***

### **The Third Issue - are the 1999 Regulations applicable?**

- 6.43. Particular reference should be made to the advice given in Figure I “Establishing whether a development requires an EIA” in Circular 02/99.
- 6.44. Consideration must be given to whether the works carried out at Wapping Pier amount to a Schedule 1 or Schedule 2 development or whether they fall outside of the scope of the 1999 Regulations.
- 6.45. The first part of this consideration relates to Schedule 1. There is only one class of development in this schedule that conceivably relates to the case in question. That is 8 (b) – *“Trading ports, piers for loading and unloading connected to land and outside ports (excluding ferry piers) which can take vessels of over 1,350 tonnes”*.
- 6.46. The PLA has not been able to provide evidence to enable a clear conclusion to be reached as to whether Wapping Pier is capable of taking a vessel of over 1,350 tonnes. However, it has been noted by the Council that the largest vessel in the WRC fleet, mv Silver Sturgeon, is 1,007 tonnes and it must be moored to the upstream Berthing Dolphin, as Tunnel Pier alone appears not to be capable of sustaining the weight of that vessel. For the reasons given below, however, the absence of clear evidence on that point is not considered to be determinative.
- 6.47. The provenance of the Berthing Dolphin has been set out above and it has been ascertained that it was installed in 1997. At the time of its instalment, the Council were not made aware of its existence. Because it was put in place in 1997, it is immune from any enforcement action and therefore there is no case to be considered under the 1999 Regulations. In any event; Schedule 1 only applies to applications received or applications lodged in relation to development undertaken after the 1999 Regulations came into effect (14<sup>th</sup> March 1999),

- 6.48. Turning to Schedule 2, it is noted that ‘piers’ are not mentioned in Schedule 2. However, in taking a broad interpretation of the 1999 Regulations, there is one class of development in this schedule that could conceivably relate to the case in question. That is “10 – *Infrastructure Projects*” and specifically the applicability of sub-classes:
- (c) *Intermodal transshipment facilities and of intermodal terminals*; and,
- (g) *Harbours and Port Installations*.
- 6.49. These descriptions of development are not considered to relate to the operation of Wapping Pier. It is not used as any part of an intermodal transport system. It is also not a port or harbour with all that would entail in the normal use of such words. On those grounds alone, it could be concluded that Wapping Pier does not fall within Schedule 2 of the EIA Regulations.
- 6.50. However, the clear intention of the European Directive was for LPAs to take a broad interpretation of the need for Environmental Assessment to be applied to potential development for which is a likelihood of a significant environmental effect. As such, it is appropriate to consider not only the definitions of development falling in Schedule 1 and Schedule 2, but also the question of the indicative thresholds for such classes of development and the potential for any significant environmental effects.
- 6.51. In addition; in Schedule 2, Class 13 refers to (i) a “*change to or extension of development of a description listed in Schedule 1...*” (ie which includes a pier); and (ii) “*the change or extension may have significant adverse effects on the environment*”; and (iii) “*the thresholds and criteria in Column 2 of the paragraph of this table indicated below applied to the change or extension (and not to the development as changed or extended)...*” (meaning, for our purposes, where the pier was extended by an addition to the pier which exceeds 1 hectare then it may come within the relevant class listed in Schedule 2).
- 6.52. The threshold for Schedule 1 developments and schedule 2 class 13 is one hectare [10,000 square metres]. It is possible to consider the site area of Wapping Pier in a number of different ways:
- 1) The footprint of Wapping Pier (i.e. the walkway from King Henry’s Stairs to and including Tunnel Pier, together with Tower Pier and the Downstream Collar Barge) amounts to 701 square metres.
  - 2) If one includes the area of the river covered by the entire fleet moored at Wapping Pier together with the footprint in (i) above, the total ‘site area’ is 2,159 square metres.
  - 3) Even if one were to add the river lying between the landward side of Wapping Pier between the Berthing Dolphin at its upstream extremity and the most extreme downstream end of the

Downstream Collar Barge, to the area in (ii) above, the total site area amounts to 8,157 square metres.

- 6.53. This method in (3) above of the looking at the question of the site area would be quite notional, and indeed extreme, but it serves to illustrate that Wapping Pier does not bear any meaningful resemblance to the scale of a project that is covered by the Regulations. So, given a more realistic interpretation of the site area of Wapping Pier, the scale of the development at Wapping Pier, is not considered to be covered by the 1999 Regulations.
- 6.54. It is acknowledged that Wapping Pier lies wholly within a designated conservation area. However, a conservation area is not defined as a 'sensitive area' for the purposes of Schedule 3 to the 1999 Regulations.
- 6.55. Furthermore, given the provenance of each part of Wapping Pier set out in a preceding section of this report, it has been conclusively shown that the provision of each part of the complex is immune from enforcement action either by virtue of being permitted development or through effluxion of time and therefore there is no case to be considered under the 1999 Regulations.

**Other Issues relating to the matter of complaint:**

- 6.56. The historic grant of planning permission to the site on the riverbank adjoining King Henry Stairs has no bearing on the consideration of whether the works and the use of Wapping Pier are lawful. Indeed, that permission has lapsed, as it has not been implemented within the five year rule.
- 6.57. The implications of the situation regarding the alleged blocking of a public right of way at King Henry Stairs is of no relevance to the consideration of whether the works and the use of Wapping Pier are lawful. That is a separate issue for consideration by the Council, as Highway Authority.

## 7. SUMMARY OF CONCLUSIONS

7.1. The conclusions made above are drawn together below to demonstrate the final concluding remarks in closing this investigation.

- (1) Works and operations (constituting development) carried out by the PLA (a statutory undertaker) on land at Wapping Pier (operational land) required for the permitted purposes set out in Schedule 2, Part 17, Class B of the GPDO would be 'permitted development'.
- (2) Works and operations (constituting development) carried out by WRC (a licence holder) cannot benefit from 'permitted development' rights under Schedule 2, Part 17, Class B of the GPDO.
- (3) The position and structure of Tunnel Pier pre-dates the advent of planning controls in 1948 and, as such, is therefore lawful.
- (4) There have been no works constituting development (for the purposes of section 55 of the 1990 Act) on Tunnel Pier since 1948 of which the Council, having undertaken due enquiries, is aware. Therefore, it is reasonable to conclude that there is no breach of planning controls regarding its current form at this site.
- (5) The current position of Tower Pier commenced in July 2000. The development (ie the mooring of Tower Pier downstream of Tunnel Pier) was carried out by the PLA. The PLA, as a statutory undertaker, had the benefit of permitted development rights pursuant to the GPDO to position the works on their operational land.
- (6) There have been no works constituting development (for the purposes of section 55 of the 1990 Act) on Tower Pier since it was moved to its current position in 2000 of which the Council, having undertaken due enquiries, is aware. Therefore, it is reasonable to conclude that there is no breach of planning controls regarding its current form at this site.
- (7) The steel piles are authorised with the benefit of full planning approval.
- (8) The mooring of the downstream collar barge downstream of Tower Pier was undertaken in August 2003. The development was carried out by the PLA. The PLA, as a statutory undertaker, had the benefit of permitted development rights pursuant to the GPDO to position the works on their operational land.
- (9) The instalment of the berthing dolphin by WRC in 1997 was unauthorised. However, the power to take any enforcement action

lapsed in 2001, 4 years after it was installed, in accordance with section 171B of the 1990 Act.

- (10) The whole of the structure known as Wapping Pier is the planning unit for the purpose of assessing the whether there has been a material change of use. The planning unit was extended in three phases between 1997 and 2003 by the addition of the upstream Berthing Dolphin in 1997, Tower Pier In 2000 and the downstream Collar Barge in 2003.
- (11) The installations of the Tower Pier pontoon and the Downstream Collar Barge were carried out under permitted development rights derived from Schedule 2, Part 17, Class B of the GPDO but the PLA did not itself institute any particular use of the facility thus created. The use of these structures for purposes defined in Schedule 2, Part 17, Class B of the GPDO persists in planning terms as the lawful use and remains to be taken up by the PLA or their lessees.
- (12) The material change of use instituted by WRC, who are now known without doubt to be licensees, of Tower Pier and the Downstream Collar Barge commenced after 1996 (ie in 2000). Therefore, as there is no express planning approval for the material change of use that has taken place, and it is not considered to be authorised by the GPDO, it is considered to be unlawful. There is no immunity from enforcement action, as the current activities on Tower Pier and the Downstream Collar Barge have not continued for more than 10-years.
- (13) The GPDO authorised introduction of Tower Pier and the Downstream Collar Barge, which has facilitated the intensification and expansion of the operation. However this more extensive use by WRC (rather than by the PLA or their lessees) requires planning permission because the GPDO does not authorise development in the form of a material change of use by WRC (a licence holder). The PLA or their lessee did not carry out that act of development so as to bring it within the GPDO, and no other planning permission exists for the change of use.
- (14) There has been a material change in the character and nature of the activities at the Pier, in respect of additional office facilities and the preparation of meals at the Pier, which was made possible by the addition of Tower Pier in 2000.
- (15) A commensurate increase in staff generally would indicate a growth in the business, but may also result from a material change of use due to the increase in office and catering activity with apparently increased impacts of residential amenity.
- (16) The introduction of the Downstream Collar Barge in 2003 to handle the greater quantity of waste produced by the operation

signifies further evidence of a growth in the business, but not necessarily a material change in the character and nature of activities at the Pier.

- 7.2. Ultimately, whether it is argued that the analysis of Wapping Pier should be undertaken on the basis of its separate parts or as one planning unit, there is now evidence that WRC need a formal planning permission to carry on their current use of the complex, which is as the operational base for a river cruise business, including office, storage, staff mess room, catering and associated waste storage facilities.

## 8. ENFORCEMENT CONSIDERATIONS

### General principles

- 8.1. Firstly, it should be noted that the power to instigate enforcement action lies solely with the LPA. Secondly, the power to take enforcement action is discretionary. Thirdly, the level of enforcement action should be commensurate with the harm caused by the breach of planning control. These principles are set out in PPG18 and referred to above.
- 8.2. In considering whether to take enforcement action in each case and, bearing in mind that enforcement action is discretionary in any event, the Council has to weigh up whether enforcement action would be expedient and proportionate. Considerations relevant to deciding whether it is expedient to enforce include:
  - a) the detriment to amenity caused by the development;
  - b) the harm of the placement of the Pier versus the benefits from it;  
and
  - c) the fact that enforcement is an option of last resort.
- 8.3. The Guidance in PPG18 sets out that the LPA need not take enforcement action for technical breaches of planning control. But the ‘developer’ ought to be invited to remedy the breach by making a retrospective planning application. The Guidance sets out what steps the LPA should take should the ‘developer’ choose not to submit an application. Essentially, where there is no demonstrable harm to public interest then the matter may be allowed to lie.
- 8.4. The Guidance sets out that the matter deserves more positive action by the LPA where there are issues of public interest arising from demonstrable harm to amenity. In these cases the LPA needs to consider whether the grant of conditional planning approval would remedy the situation and alleviate the harm to amenity.
- 8.5. The Guidance sets out that the ‘developer’ should be invited to apply for planning permission, as that will allow the LPA the opportunity to impose such conditions. In the event that the ‘developer’ does not apply, then the LPA can serve an enforcement notice, as in this way it can specify the measures to be taken to address the harm caused by the development.
- 8.6. Government advice in PPG18 clearly sets out that the LPA should not take enforcement action without in the first place seeking to negotiate the appropriate remedy.
- 8.7. Moreover, the guidance is very clear that only in circumstances where there is no possibility of an acceptable solution should the LPA take the most serious measures to remove the development.



### **Specific measures in the case of Wapping Pier**

- 8.8. The situation in the case of Wapping Pier is complicated given the evolution of the complex. Essentially, as has been shown by the evidence gathered, Tunnel Pier is a lawful structure; the PLA were responsible for installing Tower Pier and the Downstream Collar Barge under permitted development rights; WRC have express approval for the Steel Pile Dolphin; and, the Berthing Dolphin is immune from enforcement action under the 4-year rule on structures.
- 8.9. However, on balance it is considered that there has been a material change of the use of the Pier by WRC, which is unlawful and requires planning permission. Therefore, there are grounds for taking enforcement action against this breach of planning control, if considered expedient on planning merits.

### **Expediency considerations**

- 8.10. A decision has to be made as to whether to invite a planning application or to move directly to serve an enforcement notice. DOE (now DCLG) Circular 8/93 (Award of Costs Incurred in Planning and Other (Including Compulsory Purchase Order) Proceedings) paragraph 24 of Annex 3 (Unreasonable Behaviour Relating to the Substance of the Case, including Action Prior to Submission of Appeal) points out:

*“24. It will generally be regarded as unreasonable for a planning authority to issue an enforcement notice solely to remedy the absence of a valid planning permission, if it is concluded, on an enforcement appeal to the Secretary of State, that there is no significant planning objection to the breach of control alleged in the enforcement notice. Accordingly, planning authorities who issue a notice in these circumstances will remain at risk of an award against them of the appellant's costs in the enforcement appeal...”*

- 8.11. Paragraphs 5 to 22 of PPG 18 (Enforcing Planning Control) sets out the Secretary of State's expectations for how planning authorities should consider breaches of planning control and particularly at paragraphs 14 to 17 gives advice about unauthorised development by small businesses.

*“14. Although some breaches of control are clearly deliberate, the LPA may find that an owner or operator of a small business, or a self-employed person, has carried out unauthorised development in good faith, believing that no planning permission is needed for it. The cost of responding to enforcement action may represent a substantial financial burden on such a small business, or self-employed person. LPAs should consider this in deciding how to handle a particular case.”*

- 8.12. We have to be able to show, on appeal, that the Council had reasonable grounds for concluding that the breach of control would unacceptably affect public amenity and any harm could not be controlled by the imposition of a condition or the negotiation of a planning obligation, and it was expedient to issue the enforcement notice in the particular case.

- 8.13. As can be seen from this report, the arguments as to whether planning permission is needed for the development are far from clear-cut and remain arguable. It is necessary therefore to examine the development plan and other material considerations carefully to judge whether there is a realistic prospect of a planning permission being granted for the use of Wapping Pier as the operational base for a river cruise business, including office, storage, staff mess room, catering and associated waste storage facilities.
- 8.14. In making this judgement, it must be remembered that there would be the opportunity to impose conditions or to negotiate a legal agreement in order to control the development. This judgement therefore cannot amount to a full assessment of the planning merits of the development against the development plan, because to do so at this stage would be wrong as the Council would not have the benefit of the results of consultation on or publicity of the planning application. Any conclusions would therefore be premature and the Council could be accused of having predetermined a planning application before it had received it.
- 8.15. The development plan (the London Plan 2004 and the Tower Hamlets Unitary Development Plan 1998) as well as the emerging development plan (the current alterations to the London Plan and the submission version of the Tower Hamlets Local Development Framework) will therefore be examined in order to identify the main planning considerations and to ascertain whether the planning policy framework clearly points to the development being unacceptable or whether there is at least a reasonable prospect of a planning permission being granted.
- 8.16. Of relevance to this analysis is the fact that the site is located within the Wapping Pierhead Conservation Area and that there are a number of listed buildings near Wapping Pier:
- St John's Wharf F & G Warehouse, 104-106 Wapping High Street (LB927)
  - 108 & 110 Wapping High Street (LB725)
  - St John's Wharf 'K' Warehouse, 112 Wapping High Street (LB622(a)(a))
  - King Henry Wharves 'A', 'B', 'C' and 'D' Warehouse, 118-120 Wapping High Street (LB623(a))
  - Gun Wharves, 124-130 Wapping High Street (LB723)

### **The Development Plan**

#### London Plan 2004

- 8.17. With the publication of his spatial development strategy, The London Plan, in February 2004, the Mayor has put in place a strategic framework to manage the complexities of London's growth, so that all Londoners can share in its success.

- 8.18. Policies in the London Plan are necessarily strategic and are designed to guide development in London as a whole. Whilst many of the policies in the plan will touch on the development at Wapping Pier, the following are the most relevant:

**3B Working in London**

Policy 3B.10 Tourism industry

**3C Connecting London – improving travel in London**

Policy 3C.2 Matching development to transport capacity

**3D Enjoying London**

Policy 3D.6 Visitors accommodation and facilities

Policy 3D.12 Biodiversity and nature conservation

**4A London’s metabolism: using and managing natural resources**

Policy 4A.14 Reducing noise

**4B Designs on London**

Policy 4B.10 London’s built heritage

Policy 4B.11 Heritage conservation

Policy 4B.12 Historic conservation-led regeneration

Policy 4B.14 Archaeology

**4C The Blue Ribbon Network**

Policy 4C.1 The strategic importance of the Blue Ribbon Network

Policy 4C.2 Context for sustainable growth

Policy 4C.3 The natural value of the Blue Ribbon Network

Policy 4C.10 Historic environment

Policy 4C.11 Conservation areas

Policy 4C.13 Passenger and tourism uses on the Blue Ribbon Network

Policy 4C.16 Increasing sport and leisure use on the Blue Ribbon Network

Policy 4C.19 Moorings facilities on the Blue Ribbon Network

Policy 4C.23 Safety on and near to the Blue Ribbon Network

Policy 4C.24 Importance of the Thames

Early Alterations to the London Plan 2006

- 8.19. The Mayor undertook Early Alterations to the London Plan to address pressing housing provision, waste and minerals issues. These were subject to an Examination in Public in June 2006, which was led by an independent panel. The Early Alterations were published in December 2006, and form part of the London Plan. The issues raised in these alterations do not materially affect the development at Wapping Pier.

Tower Hamlets Unitary Development Plan 1998

- 8.20. Wapping Pier falls within the following policy designations on the proposals map:

- Flood Protection Area
- Site of Nature Conservation Importance
- Area of Archaeological Importance
- Strategic Riverside Walk

- 8.21. Close to the site is “Commitment and Proposal No 148 – Wapping High Street Road Improvement Line”. This does not directly affect the development.
- 8.22. Part 1 of the UDP sets out the strategic policies for the borough. Whilst these clearly relate to the development at Wapping Pier, they set out high level aims and objectives rather than detailed criteria against which a development could be judged, it would be unreasonable to conclude at this stage that they clearly point to the development being unacceptable in principle. Rather, they indicate the aspects of the development at Wapping Pier that will need careful consideration. For example, the environment policies (ST4 to ST9), the economy and employment policies (particularly ST15 and ST18), the transport policies (particularly ST28 and ST32), the arts, entertainment and tourism policies (particularly ST42 and ST44), and the public utilities and flood defences policies (particularly ST54) will all have to be considered and the views of appropriate statutory and other consultees sought.
- 8.23. Whilst many of the policies in part 2 of the UDP will touch on the development at Wapping Pier, the following are the most relevant:

## **CHAPTER 2 THE ENVIRONMENT**

### **SECTION 1 GENERAL DESIGN AND ENVIRONMENT REQUIREMENTS**

DEV2 Environmental Requirements

DEV4 Planning Obligations

### **SECTION 2 URBAN DESIGN AND CONSERVATION**

#### **Conservation Areas**

DEV25 New Development in Conservation Areas

DEV26 Small Scale Proposals

#### **Historic Buildings and Structures**

DEV38 Preparation of Schemes of Preservation & Enhancement

DEV39 Development Affecting the Setting of a Listed Building

#### **Archaeology and Ancient Monuments**

DEV43 Protection of Archaeological Heritage

DEV44 Preservation of Archaeological Remains

DEV45 Development in Areas of Archaeological Interest

#### **Riverside, Canalside, Docks & Other Water Areas**

DEV46 Riverside, Canalside, Docks & Other Water Areas Protection of Waterway Corridors

DEV49 Moored Vessels and Structures

### **SECTION 3 ENVIRONMENTAL PROTECTION**

#### **Environmental Impact of Development**

DEV50 Environmental Impact of Development Noise

#### **Litter and Waste Control**

DEV55 Development and Waste Disposal

DEV56 Waste Recycling

### **SECTION 4 THE NATURAL ENVIRONMENT**

#### **Nature Conservation and Ecology**

DEV57 Development Affecting Nature Conservation Areas

DEV58 Enhancement of Nature Conservation Sites

DEV62 Development Adversely Affecting Nature Conservation Areas

**CHAPTER 4 - THE ECONOMY AND EMPLOYMENT****Promoting Employment Growth**

EMP2	Retaining existing employment uses
EMP4	Expansion of existing firms
EMP6	Employing local people

**Small Businesses**

EMP8	Encouraging small business growth
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**Environmentally Intrusive Activities**

EMP15	Sites causing nuisance
EMP16	Relocation

**CHAPTER 6 TRANSPORT****Public Transport**

T4	River Bus
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**Transport and Development**

T15	Location of New Development
T16	Traffic Priorities for New Development
T17	Planning Standards

**Pedestrians**

T20	Strategic Pedestrian Route
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**CHAPTER 12 PUBLIC UTILITIES AND FLOOD DEFENCES****Tidal and Flood Defences**

U2	Development in Areas at Risk from Flooding
U3	Flood Protection Measures

**The Emerging Development Plan****Further Alterations to the London Plan**

- 8.24. The Mayor has also prepared draft Further Alterations to the London Plan which are available for public comment. The consultation period runs from 28 September to 22 December 2006. The alterations are based on the Mayor's Statement of Intent to review the London Plan, which was published in December 2005. These alterations are at an early stage in the process of preparation and therefore carry little weight in the decision making process. The general thrust of the policies relating to Wapping Pier is not materially altered by these proposed changes.

**Tower Hamlets Local Development Framework (Submission Stage)**

- 8.25. Under the new system of development plans, introduced under the Planning and Compulsory Purchase Act 2004, the Council has embarked on the production of a suite of documents to provide a new policy framework for Tower Hamlets. The two documents relevant to this site are the "Core Strategy and Development Control Development Plan Document" and the "City Fringe Area Action Plan Development Plan Document". The Council submitted the suite of documents for independent examination to the Secretary of State on the 9th of November 2006.

## Core Strategy And Development Control DPD

8.26. Wapping Pier falls within the following policy designations on the proposals map:

- Site of Importance for Nature Conservation (CP33)
- Blue Ribbon Network (CP36)
- Flood Risk Area (CP37)
- Conservation Area (CP49)
- Area Action Plan Boundary (City Fringe)

8.27. Whilst many of the policies in the Core Strategy will touch on the development at Wapping Pier, the following are the most relevant:

### **2. Implementing the Core Strategy**

IMP1 Planning Obligations

### **3. Spatial Strategy**

The Community Plan Vision

Spatial Vision

Objectives

Crosscutting Themes for a Sustainable Community

CP1 Creating Sustainable Communities

CP2 Equality of Opportunity

CP3 Sustainable Environment

CP5 Supporting Infrastructure

### **4. Creating and Sharing Prosperity**

CP7 Job Creation and Growth

CP9 Employment Space for Small Businesses

CP11 Sites in Employment Use

CP12 Creative and Cultural Industries and Tourism

CP14 Combining Employment and Residential Use

### **6. Sustainable Environment**

CP31 Biodiversity

CP33 Sites of Importance for Nature Conservation

CP36 The Water Environment and Waterside Walkways

CP37 Flood Alleviation

CP39 Sustainable Waste Management

### **7. A Well-connected Borough**

CP41 Integrating Development with Transport

CP45 The Road Hierarchy

### **8. A Well-designed Place for People**

CP46 Accessible and Inclusive Environments

CP49 Historic Environment

### **General Development Control Policies**

DEV1 Amenity

DEV10 Disturbance from Noise Pollution

DEV11 Air Pollution and Air Quality

DEV15 Waste and Recyclables Storage

DEV17 Transport Assessments

DEV19 Parking for Motor Vehicles

DEV21 Flood Risk Management

### **10. Economy and Employment**

EE2 Redevelopment /Change of Use of Employment Sites

EE3 Relocation of Businesses outside of Strategic Industrial Locations and Local Industrial Locations

**14. Open Space**

OSN3 Blue Ribbon Network and the Thames Policy Area

**15. Conservation**

CON1 Listed Buildings

CON2 Conservation Areas

**Planning Standards**

Planning Standard 1: Noise

Planning Standard 2: Residential Waste Refuse and Recycling Provision

Planning Standard 3: Parking

City Fringe Area Action Plan DPD

8.28. On the Wapping sub-area diagram, the shore near Wapping Pier is identified as a Mixed Use area. The following policies are most applicable to the development:

Policy CFR1	City Fringe spatial strategy
Policy CFR2	Transport and movement
Policy CFR8	Waste
Policy CFR21	Employment uses in Wapping sub-area

**The Main Planning Considerations**

8.29. The main planning considerations raised by the development at Wapping Pier are:

1. The principle of the development
2. Impact on residential amenity
3. Impact on heritage conservation
4. Impact on nature conservation
5. Highway issues
6. Flooding issues

The principle of the development

8.30. The development plan contains a number of policies that could be seen as supporting the provision of a pier within the River Thames serving the tourism and leisure industry in London (London Plan policies 3B.10, 3D.6 and the Blue Ribbon Network policies and UDP policies DEV 46 & 49, EMP 2, 4, 6 & 8 and T4). That is not to say that the development is acceptable per se, merely that there does not appear to be any clear policy presumption against it.

Impact on residential amenity

8.31. It is clear from the representations received from local residents that the development, as it is currently operated, is causing some harm to the amenities of those residents. This is principally around the impacts of noise and smells from the catering elements of the operation, including associated waste disposal. Concern is also expressed about water treatment and sewage issues. These are all issues that may be

capable of control through the imposition of planning conditions or by the negotiation of a legal agreement. At this stage, it is not possible to conclude that the development is intrinsically unacceptable from an amenity point of view.

#### Impact on heritage conservation

8.32. In assessing the development, the Council will have to discharge its duties under Sections 66 and 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 to pay special attention to the desirability of:

- preserving or enhancing the character or appearance of the Wapping Pierhead Conservation Area; and
- preserving the setting of nearby listed buildings.

8.33. It must be remembered that we are dealing with the use of a lawful structure and not the impact of the structure itself. A functioning pier has been in this location for many years, is therefore an intrinsic part of the character of the area, and plays an important role in the setting of the listed buildings. The Council has recently issued for consultation purposes, draft Character Appraisals and Management Guidelines for this conservation area and this will guide the detailed assessment that will be necessary. At this stage it is not possible to conclude that the development is intrinsically unacceptable from a heritage conservation point of view.

8.34. The site is within an Area of Archaeological Importance in the UDP. This is unlikely to affect the principle of the development and would need to be assessed with the aid of consultees.

#### Impact on nature conservation

8.35. The site is within a Site of Nature Conservation Importance in the UDP. This is unlikely to affect the principle of the development and would need to be assessed with the aid of consultees.

#### Highway issues

8.36. Wapping High Street serves the development. On-street parking is controlled throughout the area. Although the traffic impacts of the development will need to be carefully assessed, it is very unlikely that a development of this scale, served from a highway such as Wapping High Street, would be fundamentally unacceptable from a planning point of view. It is also likely that if there are areas of concern, such as conflicts at peak times, these should be capable of control through the imposition of planning conditions or by the negotiation of a legal agreement. At this stage, it is not possible to conclude that the development is intrinsically unacceptable from a highway point of view.



### Flooding issues

- 8.37. The site is within a Flood Protection Area in the UDP. This is unlikely to affect the principle of the development and would need to be assessed with the aid of consultees.

### **Conclusions on expediency issue**

- 8.38. The analysis above shows that, whilst there are issues associated with the current use at Wapping Pier that will need careful examination, there are no issues of principle that can be identified at this stage that would suggest that there is not at least a reasonable prospect of a planning permission being granted for the development.
- 8.39. Consideration will need to be given to what steps should be taken to mitigate any demonstrable harm caused to public amenity. Measures such as the time of operation of the complex, the noise levels to be observed, the lighting levels, the emission of fumes from kitchens, the arrangements for waste storage, etc are all potentially capable of being safeguarded through the use of planning conditions.
- 8.40. On balance therefore a planning application should be sought from WRC.

## **9. RECOMMENDATIONS**

- 9.1. WRC should be invited to apply for planning permission for their operations at Wapping Pier, in order that the acceptability of the use can be considered along with whether appropriate planning conditions could be imposed or planning obligations negotiated, in accordance with advice to planning authorities in PPG18 at paragraph 8.
- 9.2. In the event that WRC do not apply, the council should formally consider a report advising on the expediency of serving an enforcement notice requiring steps that are deemed necessary for the acceptable operation of the complex in the interests of public amenity, in accordance with advice to planning authorities in PPG18 at paragraph 9.
- 9.3. WRC should be given 28 days to decide whether they are going to make a planning application and a further 56 days to prepare and submit the relevant documents. On the basis of the analysis and conclusions in this report, the period for taking enforcement action against the use of Wapping Pier by WRC expires in July 2010; therefore these timescales would not prejudice the Council's ability to take enforcement action, if it should decide to do so.

# Agenda Item 8.1

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 8.1
<b>Report of:</b> Corporate Director Development & Renewal		<b>Title:</b> Special Planning Considerations	
<b>Case Officer:</b> Michael Kiely		<b>Ref No:</b> PA/05/00421	
		<b>Ward(s):</b> Bethnal Green North	

## 1. DEVELOPMENT DETAILS

<b>Location:</b>	33-37 The Oval London E2 9DT
<b>Existing Use:</b>	Vacant land/construction site – former industrial use
<b>Development:</b>	Demolition of existing building and redevelopment to provide a five storey building comprising 3 Use Class B1 (business) units on the ground floor with 14 flats above (6 one bedroom, 6 two bedroom and 2 three bedroom flats).
<b>Drawing Nos:</b>	001A, 002B, 003B, 004B, 005, SK006 & 007 plus design & access statement and sunlight & daylight report
<b>Applicant:</b>	Neptune Group
<b>Owner:</b>	Warren Tyler
<b>Historic Building:</b>	No
<b>Conservation Area:</b>	No

## 2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

- 2.1 This report considers the risks associated with the development at this location that was given planning permission without proper consultation with the Health and Safety Executive (HSE), a statutory consultee under the General Permitted Development Order (GDPO). After considering an independent assessment of the risks (the Atkins Report at Appendix C together with HSE's comments, Appendix D and Atkins' responses, Appendix E), the report concludes that the nature and level of risk does not over-ride the planning benefits of the development to justify serving an order under either S97 or S102 of the Town and Country Planning Act. This decision is not seen as setting a precedent for future decisions due to the very special circumstances that surround it. It is considered desirable to secure measures that would mitigate some of the risks through negotiation with the developer. These can be secured using powers under S106 of the Act to enter into planning obligations.
- 2.2 The conclusions arrived at in the Atkins Report (and in this report) are not seen in any way as setting a precedent for future planning application decisions in this type of locality as they relate to a discrete set of circumstances limited to a particular site and do not address how the Council will assess future applications.

## 3. RECOMMENDATION

- 3.1 That the Committee resolve to not use the powers in S97 or S102 of the Town and Country Planning Act 1990 (as amended).

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### LOCAL GOVERNMENT ACT 2000 (Section 97) LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THIS REPORT

Brief Description of background papers:	Tick if copy supplied for register	Name and telephone no. of holder:
Application, plans, adopted UDP. draft LDF and London Plan	✓	Michael Kiely 020 7364 5257

3.2 That the Corporate Director Development & Renewal is delegated power to negotiate a legal agreement with the developer to secure the obligations described in paragraph 8.30 of the report.

## 4. BACKGROUND

### Site and Surroundings

4.1 The site lies on the western side of The Oval, has a frontage of 22m, a depth of 25.5m and a site area of 0.056 hectares. It used to contain a single storey building that occupied most of the site and was used as a timber furniture manufacturer's. That building has been demolished and the development permitted under PA/05/00421 is currently under construction. The ground floor of the proposed development comprises 3 B1 (office/industrial) units. The remaining 4 floors of this 5-storey development provide 14 residential units: 6 x 1 bedroom, 6 x 2 bedroom & 2 x 3 bedroom. The immediate area is generally commercial in nature however the wider area has a significant residential population.

4.2 To the north of the site is a 2-storey building used as a printer's. To the south of the site is a 2-storey building used as a household furniture manufacturer's.

4.3 To the west of the site are the Bethnal Green gasholders operated by National Grid (NNG). The site occupies an area of around 150m x 150m (2.25 hectares). It includes 4 gas holders of the cup and grip water seal type, each of which consists of a series of co-axial cylinders which are able to rise and fall depending on the quantity of gas to be stored. Each cylinder is sealed against the next one by a series of water-filled troughs which are replenished as each seal drops back into the bottom cylinder, which acts as a reservoir. The details of the gas holders are as follows:

- No 1            4 lifts            26 t capacity
- No 2            2 lifts            19 t capacity
- No 4            3 lifts            78 t capacity
- No 5            3 lifts            92 t capacity

4.4 The typical operational profile for a gas holder is that they are only used in the winter months (for 6-7 months) and, when used, are filled from approximately 22.00 hours to 06.00 hours and emptied from 06.00 hours to 22.00 hours.

4.5 In addition to the gas holders, there is pipework connecting this storage to the main gas network. Most of this pipework is 90cm diameter and is buried, although there are some smaller sections of 60cm and 75cm diameter above ground. There is around 600m of pipework on the site above and below ground, together with a number of valves. These valves are mostly situated to the west of the site. Indeed, the closest approach of any overground pipework to the site boundary adjacent to the development at 33-37 The Oval is around 70m. The gas holders and much of the pipework are at low pressure, although there is some of the distribution pipework which is up to around 7 bar.

### Planning History

4.6 Address: 33-37 The Oval, London, E2 9DT

Application Number: PA/06/01393

Proposal: Demolition of existing building. Redevelopment to provide a five storey building for use as 2 Class B1 (business) units on the ground floor with 14 flats above (6 one bedroom, 6 two bedroom and 2 three bedroom flats).

Decision: Withdrawn by applicant on 13<sup>th</sup> April 2007

Application Number: PA/06/01329  
Proposal: Submission of details pursuant to condition 2a (facing materials), 2b (external lighting), 2c (landscaping) and 6 (contamination) of planning permission dated 15<sup>th</sup> December 2005, reference PA/05/421  
Decision: Permitted on 26<sup>th</sup> September 2006

Application Number: PA/05/00421  
Proposal: Demolition of existing building and redevelopment to provide a five storey building comprising 3 Use Class B1 (business) units on the ground floor with 14 flats above (6 one bedroom, 6 two bedroom and 2 three bedroom flats)  
Decision Permitted on 15<sup>th</sup> December 2005

4.7 Address: Bethnal Green Holder Station, Marian Place, London, E2

Application Number: PA/02/00453  
Proposal: Continuation of Hazardous Substances Consent following a change in control of part of the land.  
Decision: Permitted on 26<sup>th</sup> June 2002

Application Number: PA/00/01825  
Proposal: Continuation of Hazardous Substances Consent (relating to change in control of part of site)  
Decision: Permitted on 22<sup>nd</sup> January 2001

Application Number: PA/00/01466  
Proposal: Installation of a 15M high extendable and shareable telecommunications tower associated cabins in 2.5m high fenced compound  
Decision: Permitted Development

**Recent events**

4.8 Planning permission PA/05/00421 was processed and determined (permission was granted on 15<sup>th</sup> December 2005) without consultation with the HSE, as required by the General Development Procedure Order. This came to HSE and NGG's attention past the time when they could challenge the decision in the courts. A decision at a site to the north (5-10 Corbridge Crescent), where a similar error occurred, was challenged by National Grid on 12 June 2006 and the decision was eventually set aside by the High Court On 6<sup>th</sup> June 2007. The Council did not contest that challenge.

4.9 In response to a design rethink for 33-37 The Oval, a revised application (PA/06/01393) was submitted on 1<sup>st</sup> August 2006. The opportunity was taken by officers to negotiate an amendment to this new scheme to address a requirement from National Grid for there to be no development within 18m of the holders. This distance is recommended by the Institute of Gas Engineers Code of Practice SR4 Edition 2 and represents the distance needed for gas leaking from an installation to rise and dilute with air so that it is no longer capable of being ignited. That amendment was secured. On consultation, National Grid no longer objected to the development, however the HSE maintained their objection. (It should be noted that HSE's view is that the distance of 18 metres is now out of date and that flammable clouds can exist in certain circumstances for up to 80 metres from the side of a gasholder, however 18 metres remains the industry's position). The Council's Strategic Development Committee considered the application on 16<sup>th</sup> November 2006 (Committee report attached as Appendix A) and resolved to grant planning permission.

- 4.10 As required by Circular 04/2000 the HSE were notified of our decision before it was issued. HSE considered this case to be exceptional enough, particularly because of the significant level of risk, to request the Secretary of State to call-in the application for her own determination. She agreed to that request. This would have resulted in a public inquiry, however the applicant withdrew the application, and consequently the application was incapable of being called-in.
- 4.11 By now work had commenced on site to construct the amended scheme (PA/06/01393). However, in view of the call-in and withdrawal of the application, the frame that was formed has been altered to enable the original scheme (approved under PA/05/00421) to be constructed. Work is currently underway on site to implement PA/05/00421 with completion expected around spring 2008.
- 4.12 In view of the concerns of the HSE about safety in relation to this development, an independent assessment of the risks associated with the nearby gas holders was commissioned by the Council. This was carried out by Atkins Oil & Gas and is attached at Appendix C. This report is as a result of consideration of the Atkins report.

## **5. LEGAL POSITION**

- 5.1 Despite the admitted failure of the consultation process, PA/05/00421 remains valid and capable of implementation unless and until quashed by the courts. Any attempt to challenge the lawfulness of the permission by judicial review is now out of time. While the court does have power to extend time, it very rarely exercises this power and would be reluctant to do so in the absence of a compelling justification.
- 5.2 Accordingly, the developer has a valid planning permission to develop the site and that is his present intention. Any development which accords with that permission will be lawful.
- 5.3 The Planning Act does give local planning authorities powers that may be used in these circumstances. These powers are also available to the Secretary of State.

### **Revocation or modification powers**

- 5.4 Section 97 of the Act gives a local planning authority the power to make either a revocation or a modification order to amend a planning permission PA/05/00421:
- (1) If it appears to the local planning authority that it is expedient to revoke or modify any permission to develop land granted on an application made under this Part, the authority may by order revoke or modify the permission to such extent as they consider expedient.*
  - (2) In exercising their functions under subsection (1) the authority shall have regard to the development plan and to any other material considerations.*
  - (3) The power conferred by this section may be exercised—*
    - (a) where the permission relates to the carrying out of building or other operations, at any time before those operations have been completed;*
    - (b) where the permission relates to a change of the use of any land, at any time before the change has taken place.*
  - (4) The revocation or modification of permission for the carrying out of building or other operations shall not affect so much of those operations as has been previously carried out.*
- 5.5 Because the development has already commenced, section 97(4) would exclude the making of a revocation order against any works already carried out. A modification order could still be made against permitted operations that have yet to be carried out.
- 5.6 The power is discretionary. The Council is under no duty to make a modification order. In deciding to make an order regard must be had to the development plan and to any other

material considerations. The order would effect a modification at the time it was made subject to it being confirmed by the Secretary of State. The developer could, however, oppose the order under section 98 of the Act and be afforded an opportunity to be heard by the Secretary of State.

- 5.7 Were a modification order to come into effect compensation would be payable by the Council to the developer under section 107 of the Act. The compensation would cover any expenses incurred in carrying out the work which is rendered abortive (including the preparatory work such as plans) and any other loss or damage directly attributable to the modification order.

### **Discontinuance powers**

- 5.8 Section 102 of the Act gives a local planning authority the power to make an order requiring the discontinuance of a use or the alteration or removal of buildings or works that are completed:

- 1) *If, having regard to the development plan and to any other material considerations, it appears to a local planning authority that it is expedient in the interests of the proper planning of their area (including the interests of amenity)—*
  - (a) *that any use of land should be discontinued or that any conditions should be imposed on the continuance of a use of land; or*
  - (b) *that any buildings or works should be altered or removed, they may by order—*
    - (i) *require the discontinuance of that use, or*
    - (ii) *impose such conditions as may be specified in the order on the continuance of it, or*
    - (iii) *require such steps as may be so specified to be taken for the alteration or removal of the buildings or works,*

*as the case may be.*
- (2) *An order under this section may grant planning permission for any development of the land to which the order relates, subject to such conditions as may be specified in the order.*
- (3) *Section 97 shall apply in relation to any planning permission granted by an order under this section as it applies in relation to planning permission granted by the local planning authority on an application made under this Part.*
- (4) *The power conferred by subsection (2) includes power, by an order under this section, to grant planning permission, subject to such conditions as may be specified in the order—*
  - (a) *for the retention, on the land to which the order relates, of buildings or works constructed or carried out before the date on which the order was submitted to the Secretary of State under section 103; or*
  - (b) *for the continuance of a use of that land instituted before that date.*
- (5) *Any planning permission granted in accordance with subsection (4) may be granted—*
  - (a) *so as to take effect from the date on which the buildings or works were constructed or carried out, or the use was instituted, or*
  - (b) *in the case of buildings or works constructed or a use instituted in accordance with planning permission granted for a limited period, so as to take effect from the end of that period.*
- (6) *Where the requirements of an order under this section will involve the displacement of persons residing in any premises, it shall be the duty of the local planning authority, in so far as there is no other residential accommodation suitable to the reasonable requirements of those persons available on reasonable terms, to secure the provision of such accommodation in advance of the displacement.*
- (7) *Subject to section 103(8), in the case of planning permission granted by an order under this section, the authority referred to in sections 91(1)(b) and 92(4) is the local planning authority making the order.*

- 5.9 Again the power is discretionary and the Council is under no duty to make such an order. In deciding to make an order regard must be had to the development plan and to any other material considerations. An order can be framed to have the same effect as a modification order.
- 5.10 Any order has to be confirmed by the Secretary of State and the owner of the land affected, the occupier of that land, and any other person who will be affected by the order (eg a mortgagee) can challenge it at a public inquiry.
- 5.11 Were a discontinuance order to come into effect compensation would be payable by the Council under section 115 of the Act. The compensation would cover depreciation of the value of the land and disturbance in enjoyment of the land.
- 5.12 It is therefore the case that the power exists under the Planning Act to remove the development in its entirety if the planning considerations justified such a decision. Compensation would be payable whichever power (section 97 or 102) was considered appropriate.

## 6. POLICY FRAMEWORK

- 6.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Decision” agenda items. The following policies are relevant to the development:

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

Proposals:	SVCA	Strategic View Consultation Area
Policies:	DEV1 & 2	General design and environmental requirements
	DEV3	Mixed use development
	DEV4	Planning obligations
	DEV50	Development and Noise
	DEV51	Contaminated Land
	DEV53	Hazardous Development - conditions
	DEV54	Hazardous Development - consultations
	HSG7	Dwelling Mix and Type
	HSG9	Density
	HSG13	Internal Standards for Residential Developments
	HSG15	Development Affecting Residential Amenity
	HSG16	Amenity Space
	T16	Traffic Priorities for New Development
	T21	Pedestrian Needs in New Development

### Interim Planning Guidance for the purposes of Development Control

Proposals:	CP50	Strategic View Consultation Area
	C6	Development Site (refer AAP)
Core Strategies:	CP1	Creating Sustainable Communities
	CP4	Good Design
	CP11	Sites in Employment Use
	CP19	New Housing Provision
	CP21	Dwelling Mix and Type
	CP22	Affordable Housing
	CP25	Housing Amenity Space
	CP41	Integrating Development with Transport
Policies:	DEV1	Amenity
	DEV2	Character and Design
	DEV3	Accessibility and Inclusive Design
	DEV4	Safety and Security



DEV10	Disturbance from Noise Pollution
DEV15	Waste and Recyclables Storage
DEV16	Walking and Cycling Facilities
DEV22	Contaminated Land
DEV23	Hazardous Development & Storage of Hazardous Substances
EE2	Redevelopment/ Change of Use of Employment Sites
HSG1	Determining Residential Density
HSG2	Housing Mix
HSG3	Affordable Housing Provisions in Individual Private Residential and Mixed-Use Schemes
HSG7	Housing Amenity Space

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

Residential Space Standards

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

3A.2	Borough Housing Targets
3A.4	Housing Choice
3A.6-8	Affordable Housing
3B.4	Mixed Use Development
3C.1	Integrating Transport and Development
3C.21	Improving Conditions for Cycling
4A.17	Dealing with Hazardous Substances
4B.3	Maximising the Potential of Sites

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

PPS3	Housing
PPG24	Planning and Noise

**Community Plan** The following Community Plan objectives relate to the application:

- A better place for living safely
- A better place for living well
- A better place for creating and sharing prosperity

## **7. CONSULTATIONS**

7.1 The HSE, National Grid, Government Office for London and the developer have been consulted on an earlier draft of this report. Their views are set out below.

### **HSE**

7.2 HSE's role in the land use planning system is to provide local authorities with advice on the nature and severity of the risks presented by major hazards (such as the Bethnal Green Gas Holder Station) to people in the surrounding area so that those risks can be given due weight, when balanced against other relevant planning considerations, in making planning decisions. (DETR circular 04/2000)

- HSE has serious concerns regarding the significant level of risk to occupants of the 5 storey development at 33-37 The Oval, E2.
- If HSE had been consulted on this development prior to the granting of planning permission, HSE would have strongly advised against the granting of planning permission and if the Council was minded to grant planning permission against HSE's

advice it would have asked the Secretary of State to 'call in' the application for their own determination.

- HSE notes that under the Council's planning policies (Adopted Unitary Development Plan, Policies DEV 53 and DEV 54), 'Development near to these (hazardous) installations (e.g. the Bethnal Green Holder Station) should not go ahead if it exposes large numbers of people to increased risk.' and that in the 'Conclusions' section of this report, the Council accepts that the development at 33-37 The Oval would result in an increase in the level of risk.
- In HSE's opinion, Atkins Oil and Gas have underestimated the risk to occupants by at least a factor of 5. This means the risk of fatality would very probably be 60 chances per million (cpm) per year risk of death or more.
- HSE's long standing view of risk follows that reached by a Study Group of the Royal Society on the topic of Risk Assessment, published in 1983 and in HSE publications since then, that considers a risk of <1 cpm risk of death is negligible and 100 cpm (1 in 10,000 per annum) unacceptable for members of the public who have risks imposed on them in the wider interests of society. HSE recognise that in practice, most industries do much better than these limits and the risk to members of the public from work activity are much lower.
- Comparison of the risk to the occupants of the development with other benchmarks such as the annual risk of death for employees from working in the construction or manufacturing industry are misleading as those risks are willingly tolerated by the individuals for direct benefit from that employment.
- An individual risk of approximately 60 cpm in this case is very high and approaches an unacceptable risk level for a member of the public.
- The apartment block is within the hazard range of nearly all the major accident scenarios predicted by Atkins Oil and Gas, HSE and National Grid (The operator of Bethnal Green Holder Station). In HSE's opinion there would be minimal opportunity for escape and evacuation for the occupants of the 5 storey development and hence in the event of an incident multiple fatalities would be expected (up to 46).
- The impact of the proposed mitigation measures is considered to be minimal on the calculated risks. The difficulties in conservation and enforcement of these measures over time mean their contribution to any impact on the safety of occupants cannot be assured hence in HSE's opinion; such measures should be given very little weight in the committee's decision.
- According to National Grid records, last year there were two major gas releases from holders in London. In 1977 a major gas escape from the Bethnal Green Holder Station caused the closure of Liverpool Street Station.
- In HSE's opinion, 33-37 the Oval is an inappropriate location for a 5 storey apartment block and the safety of its occupants should be a significant material consideration for the committee and sufficient to support revocation or discontinuance of the existing planning permission.

7.3 HSE have also submitted a commentary on the Atkins report which is appended as Appendix D. A response to this from Atkins Oil and Gas is also attached at Appendix E.

### **National Grid**

7.4 National Grid's comments are limited to the potential impact of a development on the holder station and they do not consider or cover risk to the proposed development or surrounding area in the event of a major accident at the holder station, which they consider to be the responsibility of HSE.

7.5 With regard to the impact of the development on the holder site they recommend that the development accords with the provisions of the Institute of Gas Engineers document SR4. This recommends that no source of ignition be permitted within approximately 18 metres of a gas holder and that buildings, lighting, etc should not be erected closer than 18 metres to a gasholder. They have noted the proposal does come within 18 metres and have noted

the suggested mitigation measures. However, they consider that these are unlikely to prevent potential sources of ignition within 18 metres of the holder. As such they recommend, as a minimum, that changes are made necessary to ensure consistency with IGEM document SR4.

- 7.6 National Grid also commented on the report at Appendix A, which they consider did not, in parts, accurately reflect their representations. However that report relates to a different application.

#### **Government Office for London**

- 7.7 No comments received.

#### **The Developer**

- 7.8 No comments on the report but has confirmed willingness to enter in the legal agreement specified below in paragraph 8.31.

### **8. PLANNING CONSIDERATIONS**

- 8.1 As explained earlier in the report, planning permission exists for a development at 33-37 The Oval against which a statutory consultee (the Health and Safety Executive) has raised an objection on the grounds of safety. That body was not consulted as required by the GDPO during the processing of the application. The permission cannot now be challenged due to the passage of time. The Council therefore should consider (on the basis of the development plan and any other material considerations only) whether to take any action. The action available to the Council is as follows:

- To issue an Order either under section 97 (revocation or modification powers) or under section 102 (discontinuance powers) of the Planning Act
- To negotiate changes to the development with the developer to mitigate any residual risks
- To take no action

- 8.2 In order to enable the Council to consider what is the right course of action, independent professional advice was obtained on the risk issues raised by the development from a qualified expert (the Atkins Report at Appendix C). Legal advice from Counsel has also been taken.

- 8.3 In making a decision on the planning merits, the circumstances resulting from the implementation of PA/05/00421 must create an unacceptable level of danger in order to justify serving an Order. If the development, either as permitted by PA/05/00421 or as amended through negotiation, is acceptable in the particular circumstances at the Oval then there would be no need for the Council to take any further action.

- 8.4 If the development permitted under PA/05/00421 was constructed there would be relatively minor implications with respect to the Council's function in determining future planning applications. Each case has to be treated on its individual planning merits. Such development on the site would not be likely to set a precedent for development elsewhere. It would not prevent the local planning authority considering future applications on their merits.

#### **Summary of advice received on risk assessment**

- 8.5 The system used by the HSE to assess risk when considering planning application consultations (known as PADHI) is based upon consideration of individual risk, although HSE is currently considering ways in which they can also address societal risk issues around certain major hazard installations which are surrounded by significant populations.

Their preliminary list of 54 such sites has included the gas holder installation at Bethnal Green. The Atkins report therefore considered both individual and societal risk.

- 8.6 Previously under the PADHI system, HSE as a statutory consultee had to be notified about specified development within the consultation distance of a notifiable installation (eg a gasholder site for which the consultation distance was, until 2006, 60m from the edge of the gasholder). They would look at each case and provide advice in the form of either “advise against” or “do not advise against” within the 21 day period given to reply.
- 8.7 The new system seeks to automate the process by having what is known as “standing advice”. However at about the same time as this change in methodology, HSE has also reviewed the risks associated with gas holder sites. This has resulted in much wider consultation zones for these installations (see map attached at appendix B). The development at 33-37 The Oval was also within the previous 60m consultation zone.
- 8.8 At the centre of the new consultation system is a matrix with distance from hazard against nature of the development resulting in either “advise against” or “don’t advise against” the development. There are 3 zones: inner (about 80m), middle (about 200m) and outer (about 280m), where the distances in parentheses relate to the largest gas holder on the Bethnal Green site, and are measured from the edge of the holder. There are 4 types of development. The following is just an illustration of them (the PADHI model has a more detailed definition):
- Development Type 1 Low density uses such as warehousing and industry where there are low numbers of people
  - Development Type 2 Low density housing: < 40 dwellings per hectare (the Council hardly ever builds at this density in Tower Hamlets)
  - Development Type 3 High density housing: > 40 dwellings per hectare
  - Development Type 4 very large or sensitive developments – eg sports stadia (high nos of people) or care home (hard to evacuate)
- 8.9 The implication of this new regime in Tower Hamlets is that there is effectively a 200 metre zone around all gas holders within which the HSE will “advise against” most residential development. Such an area (10.31 hectares in the case of Bethnal Green, when the area of the holder site is deducted) could hold between 2,480 and 4,480 dwellings given the Public Transport Accessibility Level of the area (PTAL 5) and development plan density policies (ie between 240 and 435 dwellings per hectare). If say only about a quarter of the area was capable of redevelopment and this was advised against by the HSE and Tower Hamlets followed this advice, between 620 and 1120 new dwellings could be lost and given recent trends in development densities, this is likely to be at the upper end of this range or even beyond it. The Council has 4 such installations in the Borough. This is a significant issue in terms of housing provision; representing nearly 18 months provision of new housing in the Borough.
- 8.10 The site at 33-37 The Oval is located within the Inner Planning Zone of the adjacent Bethnal Green gas holder site. The basis of the HSE ‘Advise Against’ decision has therefore been assessed in relation to the actual risks at the development site. Detailed information concerning the site and its operation has been used, together with the appropriate publications from HSE, to provide a list of credible potential major hazard accident scenarios from the site. The consequences of the scenarios have been calculated using standard methodologies, and the results matched, where possible, with information supplied from the National Grid Control of Major Accident Hazards (COMAH) report. Event frequencies have been estimated based both on recommendations of HSE, and also on interpretation of available accident statistics. The combination of consequences and frequencies has enabled the risks to be calculated, and the predictions match closely to the expectations based upon HSE’s Planning Zones.

### Individual Risk

- 8.11 The individual risk of fatality at 33-37 The Oval is estimated by Atkins Oil and Gas to be around 12 cpm (chances per million per year) for a typical residential population. That means that a person can be expected to be fatally injured as a result of an accident at the gasholder site every 80,000 years. The results of this assessment are therefore clearly consistent with the screening process which is applied within the PADHI process: ie this value is high compared with the level at which HSE would Advise Against for any development containing more than a few people.
- 8.12 In order to help understand the level of risk at the proposed development, it is worthwhile to compare it with historical data on the other risks to which people are typically exposed. HSE's "Reducing Risks, Protecting People" document provides some data on the risks to which people are routinely exposed. Some of this information is reproduced below, in terms of risk of fatality as annual experience per million, or chances per million per year (cpm).

	Risk as annual experience per million	Risk as annual experience
Annual risk of death (entire population)	10,309 cpm	1 in 97
Annual risk of cancer	2,584 cpm	1 in 387
Annual risk from all types of accident	246 cpm	1 in 4,064
Annual risk from all forms of road accident	60 cpm	1 in 16,800
Construction	59 cpm	1 in 17,000
Agriculture, hunting, forestry and fishing	58 cpm	1 in 17,200
Manufacturing industry	13 cpm	1 in 77,000
<b>The development</b>	<b>12 cpm</b>	<b>1 in 80,000</b>

- 8.13 These risks can be compared with the additional annual risk for the most exposed people at the proposed development of up to about 12 cpm (once in 80,000 years) due to major accidents. For example, the annual risk of death for the most exposed person would increase by about 0.12% (from 10,309 to 10,321 cpm), and this increase would be less than a twentieth of the risk of dying in all types of accident. HSE point out that comparing voluntarily accepted risks with imposed risks is misleading. However, there are few other ways in which the numbers can realistically be put into context.
- 8.14 The individual risk is therefore not intolerable (100cpm), but is above what could be described as negligible (1cpm) or broadly acceptable.

### Societal Risk

- 8.15 In addition to the above individual risk, it should be remembered that the worst case accident, involving a major fireball, could theoretically result in large numbers of people being affected in a single incident, although the likelihood of such a very severe event is very low (probably of the order of less than once in 120,000 years). This possibility of multiple fatalities may be regarded as a greater concern than the individual risks of around 12 cpm.
- 8.16 The report by Atkins Oil and Gas at Appendix C demonstrates that the societal risk associated with the Bethnal Green gas holder site is not at present exceptionally high for a typical COMAH site. It has also been shown that the societal risk would not increase to an intolerable level if the proposed development were to be allowed. The potential for a precedent being set by allowing this development is a possible concern, as further such developments could result in a significant increase in societal risk. This development

represents a 32% increase, which would imply that only 3 such developments would be required before the societal risk was almost doubled.

- 8.17 The question of precedent in planning is well established. In the strict legal sense, it does not operate in planning decisions. The dominant principle is that all planning decisions must be taken on their individual merits. The existence of a comparable decision on another site, or even the same site, may set up an expectation that a similar decision will be taken on a current application, but it does no more than that. If circumstances have changed or there are material differences, then the decision maker is entitled to come to a different conclusion on the merits of the case. Given that this decision relates to a very particular set of circumstances at this site (including previous procedural issues and the fact that the decision is taken in regard to section 97 or 102 of the Act, rather than the determination of a planning application) any decision is not seen as in any way setting a precedent for the determination of future planning applications and would not indicate how the Council will assess future applications.
- 8.18 HSE has identified in CD212 the Bethnal Green Gasholder as being amongst the 54 or so of the 1130 COMAH sites in the UK that may require explicit consideration of societal risk. HSE is of the view that the location of this development places it within the range of nearly all the potential major accidents from the closest gasholder. In the event of a serious incident, the likelihood that it would lead to multiple casualties is high. They therefore state that as no criteria has yet been agreed as to what is considered acceptable or not in terms of societal risk, any statement implying acceptance or otherwise of societal risk should not be made.

#### Conclusions on the assessment of risk

- 8.19 It is therefore clear that, when considering potential individual developments close to major hazard sites, both individual and societal risk need to be considered. In some cases, robust calculations of these risks may show them to be below some 'broadly acceptable' level, as defined by HSE. Conversely, they may be shown to be intolerable in all circumstances. Between these levels (as is the case for the proposed development), the acceptability of the risks, either individual or societal, can only be judged by balancing the calculated risks with the socioeconomic benefits (both for the hazardous installation and for developments in the vicinity). Ultimately, although HSE provides advice, it is for the planning authority to make such judgements, taking account of factors such as:
- nature and scale of benefits to the local / wider community
  - provision of jobs / employment
  - contribution to GDP and local taxes
  - consistency with local development plans
  - views of the public
  - etc
- 8.20 and balancing these benefits against the risks in terms of:
- number and likelihood of people affected (fatalities and injuries)
  - nature of harm
- 8.21 For example, a gas holder site such as Bethnal Green could be regarded as providing a significant regional benefit in terms of providing a fuel supply to a large community, and hence a planning authority might consider that a moderate level of societal risk associated with the installation was acceptable (provided it could be demonstrated to be As Low As Reasonably Practicable – ALARP), whilst for a smaller industrial activity with no significant socioeconomic benefits, a planning authority might consider the same level of societal risk to be unacceptable (even if it was also ALARP).

8.22 Similarly, where a development is proposed near an existing major hazard site, it is also the responsibility of the planning authority to make such judgements, taking account of the factors noted above. If there was such a pressing need for residential development in the area, and no other land was available, then the local planning authority may be more inclined to grant planning permission than in an area where such a pressing need was absent.

8.23 It is therefore concluded that:

1. The individual risk, at around 12cpm, is not intolerable, but is above the level at which HSE would advise against for this type of development.
2. The current societal risk associated with the gas holder site is not exceptionally high for a Top Tier COMAH site.
3. The addition of the extra population will increase societal risk by around 32%.
4. Whilst it is possible that a case could be made for accepting this additional risk, HSE is likely to be concerned at the potential for cumulative societal risk effects if adjacent properties were to be developed in a similar way.

### **Potential for further mitigation**

8.24 There are features of the development which have the potential to be amended or controlled and in certain circumstances these could be beneficial to future occupants. These measures do not however materially impact on the overall risk assessment.

#### Use of roof terraces

8.25 While there would be no mitigation possible against a major incident (such as a fireball) in practice, however, one of the key risk reduction factors is expected to be control of ignition sources close to the gas holder. The terraces at two levels (1st floor and 4th floor) should therefore be considered in relation to controlling ignition sources. Ideally, both should be removed or made inaccessible for normal use. It is recommended that the lower terrace, which is within 18m of the gas holders, is removed. If it is not possible to remove the upper level terrace, then ignition source restrictions should be applied, since there is the potential for a greater travel distance of a flammable cloud at this higher level. This could take the form of appropriate signage advising against smoking and the use of barbeques when the adjacent gas holders are in use (ie during the winter months). In view of both the greater distance from the gas holders, and the intervening presence of the building, no similar restrictions need to be applied to any terraces at the front of the building.

#### Design of boundary wall

8.26 The rear boundary wall will be 5.2m high, and will have no openings. This would ensure that any low level gas releases would be deflected upwards by the presence of this wall as well as by its buoyancy. Moreover, this would be true of all wind conditions, including those higher wind speeds which would otherwise deflect the cloud towards the ground.

#### Minimising potential for gas ingress

8.27 The risk is reduced if any gas released is unable to encounter an ignition source. This can be achieved by minimising the openings facing and within 18m of the gas holders, and ensuring that any which are within 18m are protected, as noted above, by the boundary wall.

#### Installation of shatter-proof glass

8.28 One of the contributors to the risk is explosion. Since much of the injury potential is from flying glass, the effects of explosion can be reduced by ensuring that the glass in any windows facing the gas holders is shatterproof. This can be achieved either through use of

specialist glass from a supplier such as Romag, or by application of window film such as Llumar to the internal face of the glazing.

#### Provision of adequate means of evacuation

- 8.29 In the event of a fire on one of the gas holders, the thermal radiation at the rear of the building is likely to be sufficiently intense that evacuation would be impeded. The building design should therefore ensure that all occupants, including those using the terraces, can be evacuated safely to the front of the building.

#### Applicability of the desirable design features

- 8.30 The following were recommended by Atkins with comments by officers on their applicability to the development.

**Ensure impermeability of rear wall up to 5m height:** The approved plans show the wall as impermeable. The developer has indicated a willingness to agree to enter into a planning obligation to secure this in perpetuity.

**Minimise window openings facing gas holders within 18 metres of the holder or where not protected by the rear wall:** There are no windows that breach this criteria. The only risk would be the insertion of windows into the rear wall, which would be prevented by the aforementioned planning obligation.

**Specify heat/blast resistant or shatterproof glass for windows facing gas holders:** The developer has indicated a willingness to agree to this, subject to the Council covering the additional costs. It would be secured by a planning obligation.

**Prevent the use of the lower level rear-facing roof terraces:** The developer has indicated a willingness to agree to this and it would be secured by a planning obligation.

**Display signage restricting the use of ignition sources on the upper level rear-facing roof terraces when gas holders are in use:** The developer has indicated a willingness to agree to this and it would be secured by a planning obligation.

**Ensure adequate provision is made for evacuation to the front of the building in the event of minor fires:** The approved plans provide for this with the interior layout.

#### **Development Plan Considerations**

- 8.31 A wide range of policies will impact on the development, and the Council's assessment of the two applications at this site (PA/05/00421 & PA/06/01393) demonstrates that in land use planning terms a mixed commercial and residential development is acceptable at this location. For the purposes of the considerations in this report the need for the development has to be examined in order to balance it against the increase in risk that it represents.
- 8.32 The area is one that is in need of regeneration. It is characteristic of many locations within Tower Hamlets where the former industrial base has declined and the area is now characterised by vacant and sometimes derelict buildings. The need to regenerate such areas generally and the large potential that exists in east London specifically is strongly recognised in national, regional and local planning policies. The site is within the wider Thames Gateway area where a large part of the significant growth that London is experiencing is planned to be accommodated.
- 8.33 Over and above the specific strategic policies that apply to the wider area, there is a national shortage of housing that government is giving the highest priority to addressing. Developing brownfield sites at high densities, particularly where they are near good transport links such as here, is strongly encouraged.



- 8.34 Although government is prioritising the provision of housing, it also recognises that the industrial base has declined and it can be difficult to bring forward new commercial floorspace that is needed to meet demand. Mixed use schemes, where the provision of commercial floorspace can be subsidised by more profitable uses (such as residential), are seen as necessary and desirable.
- 8.35 The site therefore can be seen as playing a small but important role in delivering a wider range of regeneration policy objectives that are important at a local, regional and national level.
- 8.36 Set against these considerations are policies DEV53 & 54 in the UDP that seek to ensure that the risks associated with hazardous installations are properly taken into account as required by Article 12 of the Seveso II Directive.

### **Conclusions**

- 8.37 Consideration of risk is a balance like any other consideration. In this case the benefits that the development brings in providing much needed housing and employment floorspace to an inner city area in need of regeneration have to be weighed against the risks represented by the development's proximity to a gas holder site.
- 8.38 When individual risk is considered, the development could be seen as being one where there is an increase that results in that risk moving from one that is broadly acceptable, but not to one which is intolerable. A range of measures that could be beneficial for future occupiers have been identified, agreed in principle and will be secured. The societal risk is not currently high and this development increases it by 32%. At these levels HSE is likely to be concerned at the potential for cumulative societal risk effects if adjacent properties were to be developed in a similar way. This risk is very low given the special circumstances of this case and the principle that planning applications are assessed on their individual merits.
- 8.39 It is therefore concluded that on balance the implementation of PA/05/00421 would not create an unacceptable level of danger when considered against the gains that the development represents in terms of much needed housing and modern commercial floorspace. Accordingly the serving of an Order would not be justified in the specific circumstances of this case. However, the mitigation benefits identified in this report at paragraph 8.30 are desirable and should be secured.
- 8.40 All other relevant policies and considerations have been taken into account in arriving at these conclusions.

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# Appendix A

<b>Committee:</b> Strategic Development	<b>Date:</b> 16 <sup>th</sup> November 2006	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 6.1
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Planning Application for Decision	
<b>Case Officer:</b> Ila Robertson		<b>Ref No:</b> PA/06/01393	
		<b>Ward:</b> Bethnal Green North	

## 1. APPLICATION DETAILS

<b>Location:</b>	33-37 The Oval, London, E2 9DT
<b>Existing Use:</b>	Scheme approved under PA/05/00421 partly constructed on site.
<b>Proposal:</b>	Demolition of existing building. Redevelopment to provide a five storey building for use as 2 Class B1 (business) units on the ground floor with 14 flats above (6 one bedroom, 6 two bedroom and 2 three bedroom flats). Amendments to the scheme granted permission on 15th December 2005 (PA/05/421).(Further Revisions).
<b>Drawing Nos:</b>	001 REV C, 002 REV D, 003 REV C, 004 REV C and 005 REV B
<b>Applicant:</b>	Neptune Group
<b>Owner:</b>	Neptune Group
<b>Historic Building:</b>	N/A
<b>Conservation Area:</b>	N/A

## 2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS

2.1 The local planning authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the London Borough of Tower Hamlets Unitary Development Plan, associated supplementary planning guidance, the London Plan and Government Planning Policy Guidance and has found that it:

- a) Is a suitable land use for the site and satisfies environmental and safety criteria adopted by the Council;
- b) Does not result in material harm to the amenity of residents or to the character and environment of the adjacent area.

## 3. RECOMMENDATION

3.1 That the Local Authority give the Health and Safety Executive:

- advanced notice of its intention to grant permission,
- 21 days from the date of the notice to give further consideration of this matter and allow them to consider whether they wish to request that the Secretary of State call-in this application for her determination.

3.2 That the Committee resolve to **GRANT** planning permission subject to:

- A. The prior completion of a **legal agreement** to secure the following aspects secured under the original scheme PA/05/00421:
  - a) Car free agreement
  - b) Repaving / S 278 highways works
  - c) Environmental improvements to The Oval.

- 3.3 That the Head of Development Decisions is delegated power to impose conditions [and informatives] on the planning permission to secure the following:

#### **Conditions**

- 1) Three year Time Limit
- 2) Reserved matters:
  - (i) External materials;
  - (ii) External lighting;
  - (iii) Hard and soft landscaping.
- 3) Landscape Maintenance
- 4) Construction Hours
- 5) Cycle Storage
- 6) Refuse Storage
- 7) Site Investigation
- 8) Sound Insulation
- 9) Signage for the western outdoor area

#### **Informatives**

- 1) Permission subject to Section 106 legal agreement.
- 2) Environmental Health
- 3) Signage

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

#### **Proposal**

- 4.1 A scheme was approved for the site on the 12<sup>th</sup> December 2005. However, following interventions by the Health and Safety Executive and the National Grid regarding the proximity of the development to the adjacent gas holders various discussions were held with the developer and a revised scheme was developed. The amended scheme results in the occupied areas of the building being set back by 18m from gas holders.

The revised scheme provides two Class B1 units on the ground floor with 14 residential flats above being 6 one bedroom, 6 two bedroom and 2 three bedroom flats. The access arrangements have altered slightly from the previously approved scheme.

#### **Site and Surroundings**

- 4.2 The previously approved scheme (PA/05/00421) has been partially constructed on site with the reinforced concrete structural framework for the five storey building complete. Works have been ceased until the revised scheme has been considered by Council.

The surrounding area consists of commercial uses with various light industrial, manufacturing and offices uses. To the west of the site is situated a large works site comprising of four gas holder tanks.

To the north of the site is Regents Canal and a number of residential developments are located along the northern side of the canal.

#### **Planning History**

- 4.3 The following planning decisions are relevant to the application:

PA/05/00421 Planning permission approved on the 15 December 2005 for the demolition of existing building and redevelopment to provide a five-storey building comprising 3 business units (B1) on the ground floor with 14 flats above (6 one bedroom flats, 6 two bedroom flats and 2 three bedroom flats).

## 5. POLICY FRAMEWORK

5.1 For details of the status of relevant policies see the front sheet for “Planning Applications for Determination” agenda items. The following policies are relevant to the application:

### Unitary Development Plan

Proposals:	SVCA	Strategic View Consultation Area
Policies:	DEV1 & 2	General design and environmental requirements
	DEV3	Mixed use development
	DEV4	Planning obligations
	DEV50	Development and Noise
	DEV51	Contaminated Land
	EMP2	Retaining Existing Employment uses
	HSG2	Location of New Housing
	HSG7	Dwelling Mix and Type
	HSG9	Density
	HSG13	Internal Standards for Residential Developments
	HSG15	Development Affecting Residential Amenity
	HSG16	Amenity Space
	T15	Location of New Development
	T16	Traffic Priorities for New Development
	T17	Planning Standards
	T21	Pedestrian Needs in New Development
	T24	Cyclist needs in New Developments

### Emerging Local Development Framework

Proposals:	CP50	Strategic View Consultation Area
	C6	Development Site (refer AAP)
Core Strategies:	CP1	Creating Sustainable Communities
	CP4	Good Design
	CP11	Sites in Employment Use
	CP19	New Housing Provision
	CP21	Dwelling Mix and Type
	CP22	Affordable Housing
	CP25	Housing Amenity Space
	CP41	Integrating Development with Transport
Policies:	DEV1	Amenity
	DEV2	Character and Design
	DEV3	Accessibility and Inclusive Design
	DEV4	Safety and Security
	DEV10	Disturbance from Noise Pollution
	DEV15	Waste and Recyclables Storage
	DEV16	Walking and Cycling Facilities
	DEV22	Contaminated Land
	DEV23	Hazardous Development & Storage of Hazardous Substances
	EE2	Redevelopment/ Change of Use of Employment Sites
	HSG1	Determining Residential Density
	HSG2	Housing Mix
	HSG3	Affordable Housing Provisions in Individual Private Residential and Mixed-Use Schemes

**Supplementary Planning Guidance/Documents**  
Residential Space Standards

**Spatial Development Strategy for Greater London (London Plan)**  
N/A

**Government Planning Policy Guidance/Statements**  
PPG3 Housing  
PPG24 Planning and Noise

**Community Plan** The following Community Plan objectives relate to the application:  
A better place for living safely  
A better place for living well

**6. CONSULTATION RESPONSE**

6.1 The views of officers within the Directorate of Development and Renewal are expressed in the MATERIAL PLANNING CONSIDERATIONS section below. The following were consulted regarding the application:

**LBTH Design and Conservation**

6.2 No objection

**LBTH Highways**

6.3 No objection, as s278 and s106 agreement has already been secured by previous planning permission PA/05/00421.

**LBTH Environmental Health**

6.4 No objection, subject to conditions being included to control hours of construction, sound insulation and site investigations due to contaminated land.

**Health and Safety Executive (Statutory Consultee)**

6.5 Objects to the scheme advising that there are sufficient reasons on safety grounds for the scheme to be refused.

**National grid (Statutory Consultee)**

6.6 No objection, subject to the occupied parts of the building being more than 18 metres from the nearest gas holder(s). However, the scheme as currently constructed on site appears considerably closer than the 18 metres shown on the submitted plans and the valid planning permission and construction appears to be continuing despite LBTH directing applicant to stop work.

Recommends that potential ignition sources within the open area adjoining the gas holders are restricted in accordance with the Institute of Gas Engineers document SR4.

(Officers visited the site on the 16<sup>th</sup> October 2006 and confirm that building works have ceased).

## 7. LOCAL REPRESENTATION

- 7.1 A total of 23 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. [The application has also been publicised in East End Life and on site.] The number of representations received from neighbours and local groups in response to notification and publicity of the application were as follows:

No of individual responses: 0                      Objecting: 0                      Supporting: 0  
No of petitions received:                      N/A

## 8. MATERIAL PLANNING CONSIDERATIONS

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

1. Land use
2. Design and Amenity
3. Health and Safety
4. Highways

### Land use

- 8.2 The principle of a mixed use development in this locality has already been accepted because of the granting of planning permission on the 15<sup>th</sup> December 2005 (PA/05/00421). The scheme still includes provision of 307sqm of employment generating B1 use class floor space on the ground floor. The residential accommodation on the upper floors does not involve the loss of any existing employment generating floorspace. The application is therefore considered to be consistent with UDP Policy EMP2. It is therefore considered in land use terms that the revised scheme is acceptable.
- 8.3 The UDP policies HSG1 and HSG2 seek to encourage residential proposals within localities which are adequately serviced and where an overall satisfactory residential environment can be assured. Given the location of the site, the design of the proposed buildings and residential use within the vicinity, it is considered that this test is met.
- 8.4 The proposed mix of units (6 one bedroom, 6 two bedroom and 2 three bedroom flats), in consideration of the urban context of the site and the existing nature of the building, is acceptable in accordance with policy HSG7 of the adopted Unitary Development Plan.

### Design and Amenity

- 8.5 The proposed revised building design is considered acceptable in terms of the requirements set out under the UDP. In particular, the revisions to the scheme are restricted to the rear of the building where it has been redesigned to achieve an 18m set back from the western gas holders. There have been no alterations to the overall height, massing or scale of the proposal as previously granted.
- 8.6 The amended design has been reviewed by Council Design officers. No objections have been raised.
- 8.7 The adopted Council UDP policies HSG15, DEV2 and DEV50 place a particular emphasis on protecting the amenity of existing and prospective surrounding residential occupiers. It is considered that the scheme provides a satisfactory level of amenity for potential occupants with the provision of both communal and exclusive amenity spaces and unit sizes in excess of the minimum space standards. Furthermore, given the location and design of the building

it is not considered that the amenity of any adjoining residential properties will be affected.

## **Health and Safety**

- 8.8 The Health and Safety Executive (HSE) is a statutory consultee for certain developments within the consultation distance of major hazard installations/ complexes and pipelines.
- 8.9 Their assessment indicates that there is a risk of harm to people at the proposed development. As such, the HSE's advice is that there are sufficient reasons, on safety grounds for advising against the granting of planning permission in this case. However, they do not give specific reasons why they consider this, other than to indicate that there is a possibility that a major accident could occur at an installation and that this could have serious consequences for people in the vicinity. Moreover, they admit that the likelihood of a major accident occurring is small.
- 8.10 National Grid have advised that they have no specific objection to the proposal, subject to all occupied parts of the scheme being set back by 18 metres from the gas holder tanks. This is the distance they consider is sufficient to ensure the safety of adjacent people. National Grid has also recommended that potential ignition sources are restricted within the open areas directly adjacent to the gas works site in accordance with Gas Engineers document SR4.
- 8.11 The building has been redesigned following the above comments to ensure that the occupied parts of the building are set back by 18m from the nearest gas holder. This distance provides a sufficient separation to ensure that, if an incident did occur at the adjoining site, the occupants would be adequately protected. It is therefore considered that the proposal accords with policy DEV 23 of the emerging LDF submission document, which states that Council will resist proposals where it would cause a significant hazard to health unless suitable mitigation measures have been demonstrated.
- 8.12 In addition, it is recommended that potential ignition sources should be restricted within the open areas directly adjacent to the gas works site. It is therefore considered that a condition should be included to ensure that signage is installed within the rear communal open terraces and courtyards clearly advising future users of this restriction.
- 8.13 As mentioned in section 3.1 of the report, the Council must refer the application back to HSE for a 21-day period if they propose to approve this application. This is to allow them time to consider this matter further, to give sound planning reasons justifying a potential refusal of this application and an opportunity to request that the Secretary of State calls-in this application for her determination. Nevertheless, the Council do not consider that there are sufficient grounds to justify a refusal of this application in this instance.

## **Highways**

- 8.5 The application site is well serviced by public transport links. The site is located within a 5min walk of the Cambridge Heath railway station that serves both North London and provides access to Liverpool Street Station. The site is within easy walking distance of Bethnal Green Road, Cambridge Heath Road and Hackney Road that are well served by numerous bus routes

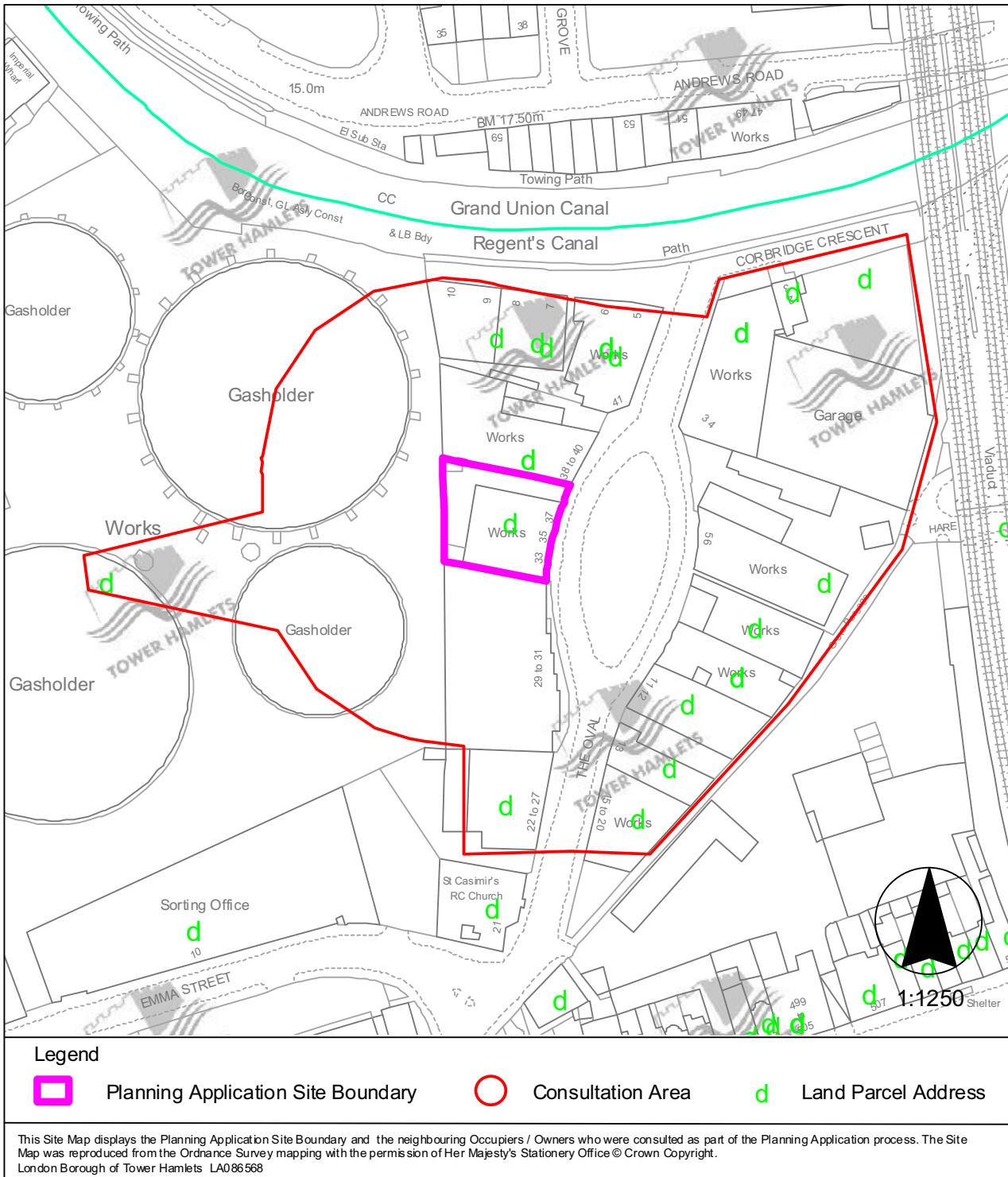
The original scheme incorporated both a 'car-free' and streetscape contribution of £21,000 as part of the s106 agreement. To ensure that development would not add pressure to the existing on-street parking in the locality. It is considered that the existing agreement should be carried over to the revised scheme to ensure that the car-free status is maintained.

- 8.7 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in the SUMMARY OF MATERIAL

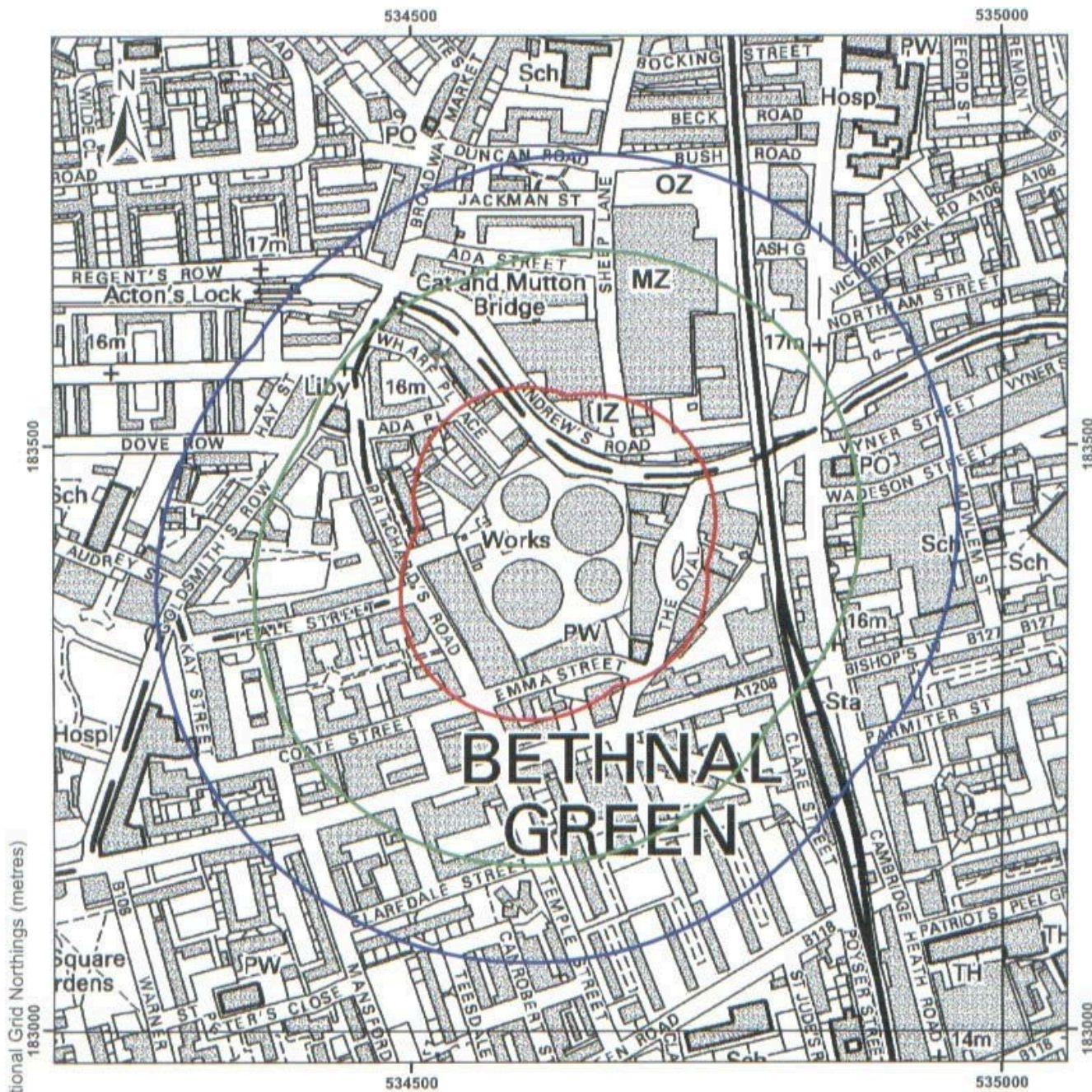


PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

## Site Map



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National Grid Eastings (metres)

**HSE Consultation Zones**

Transco, Bethnal Green Holder Station, Marian Place, Bethnal Green, London, E2 9AX

CIS Location 1360  
 HSE Ref: #1754  
 Grid Ref: TQ 346 834

Prepared - January 2006  
 This map supersedes all previous or undated maps

IZ = Inner Zone  
 MZ = Middle Zone  
 OZ = Outer Zone



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**Bethnal Green Gas Holder:  
Quantified Risk Assessment  
for Land Use Planning**

**Tower Hamlets**

Report No: 5054615/R1/Final

Issue Date: August 2007

# Bethnal Green Gas Holder: Quantified Risk Assessment for Land Use Planning

A Report Prepared by  
Atkins Oil & Gas

On Behalf of  
Tower Hamlets

**COMMERCIAL IN CONFIDENCE**

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### NOTE:

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## SUMMARY

The proposed development at 33-37 The Oval is located within the Inner Planning Zone of the adjacent Bethnal Green gas holder site. The basis of the HSE 'Advise Against' decision has therefore been addressed in relation to the actual risks at the development site.

Detailed information concerning the site and its operation has been used, together with the appropriate publications from HSE, to provide a list of credible potential major hazard accident scenarios from the site. The consequences of the scenarios have been calculated using standard methodologies, and the results matched, where possible, with information supplied from the National Grid COMAH report. Event frequencies have been estimated based both on recommendations of HSE, and also on interpretation of available accident statistics. The combination of consequences and frequencies has enabled the risks to be calculated, and the predictions match closely to the expectations based upon HSE's Planning Zones.

The results show that the individual risk is above the 'broadly acceptable' level, but is not 'intolerable'. They have also shown that the societal risk associated with the population around the gas holder site lies within a similar band, but would be increased by around 32% by the addition of this extra population (of order 60 people) within around 40m of the nearest gas holders. It is therefore concluded that:

- 1.) The individual risk, at around 12cpm, is not intolerable, but is above the level at which HSE would 'advise against' for this type of development.
- 2.) The current societal risk associated with the gas holder site is not particularly high for a Top Tier COMAH site.
- 3.) The addition of the extra population will increase societal risk by around 32%, but it will still remain well within HSE guidelines.
- 4.) Whilst it is possible that a case could be made for accepting this additional risk, HSE is likely to be concerned at the potential for cumulative societal risk effects if adjacent properties were to be developed in a similar way.

## 1. INTRODUCTION

### 1.1 Background

Planning Permission has been granted by Tower Hamlets Council for a development of 14 residential units and 3 small business units at 33 - 37 The Oval, Bethnal Green, London E2. This is a relatively small 5 storey development close to the Bethnal Green gas holder station, which is operated by National Grid.

Since this development falls inside the Inner Planning Zone of the gas holder station, within which HSE would advise against the granting of Planning Permission, Tower Hamlets is seeking an understanding of the actual risks to which users of the development would be exposed. This will provide the Planning Authority with assurance that whatever ultimate planning decision is taken will be based on a full understanding of the risks. This study has therefore been undertaken in response to a request made at a meeting at Tower Hamlets' offices on 27<sup>th</sup> March 2007.

### 1.2 Objectives and Scope of Work

The primary objective of this study is to provide realistic estimates of the risks associated with the presence of the Bethnal Green gas holder station which is in close proximity to the proposed development. In order to achieve this, Atkins has followed the scope as agreed with Tower Hamlets, and as set out below:

- 1) Meet with Tower Hamlets to clarify scope/ requirements.
- 2) Obtain and assess information regarding gas holder operations from National Grid.
- 3) Review HSE information regarding recent changes to Planning Zone methodology for gas holders to assess uncertainties and conservatisms, and to determine representative events for consideration in the Quantified Risk Assessment (QRA).
- 4) Obtain detailed population information (i.e. numbers and types) for areas covered by Planning Zones.
- 5) Produce QRA of risks from gas holder site, using best estimate methodologies as determined from Task 3, and ensuring that all the event types identified in HSE's Methane gas holders Safety Report Assessment Guide are considered. This will provide estimates of the Individual Risk to the following population types at the development:
  - a) Indoor residential population in nearest (top floor) flat.
  - b) Indoor office worker in nearest ground floor office.
  - c) Outdoor user of communal terrace area at top floor roof level.

It will also provide estimates of the Societal Risk (risk of large numbers of fatalities arising as a result of a particular incident) associated with the presence of the existing population in the vicinity of the gas holders, together with an estimate of the change to the Societal Risk when the new development is completed and occupied.

- 6) Assess significance of individual risks at the new development in relation to other everyday risks, and to criteria set by HSE.

The following information was requested to be supplied by Tower Hamlets Council, in order to complete the above scope of work;

- 1) Details of amounts stated (for each individual gas holder) in the Hazardous Substances Consent.
- 2) Typical annual operational profile of the gas holder station.
- 3) Existing population data for the surrounding area (see Item 4 under Scope of Work).
- 4) Copy of predictive aspects section of COMAH safety report for Bethnal Green gas holder station.

### **1.3 Structure of Report**

Section 2 considers the proposed development in the context of the existing local environment. In particular, it identifies the land uses around the gas holder site, and sets out the population types within the area. Section 3 then describes the way in which HSE consider planning applications in the vicinity of Major Hazard sites, and the particular relevance of HSE's methodology to the proposal.

The detailed quantified risk assessment is given in Section 4, where it is compared with assessments both from HSE and from National Grid. The results of the QRA are then set into context in Section 5, where their implications in relation to the development are discussed. Conclusions are drawn out in Section 6, and background information and analyses are given in the appendices.

## **2. THE PROPOSED DEVELOPMENT IN CONTEXT**

### **2.1 The Development at The Oval**

The four gas holders at National Grid's Bethnal Green site occupy an area of around 150m x 150m. Immediately to the east of this site is a road called The Oval, and the proposed development is at numbers 33-37, backing onto the gas holder site, approximately between Gas Holder 2 and Gas Holder 5. The development area covers around 22m x 25.5m (0.056 ha), and is shown in Figure 2.1. The current stage of the construction (as at 16.06.07) is shown in the photograph in Figure 2.2. The development is also shown in the context of the gas holders and the wider area in Figure 2.3, which also includes HSE's planning zones (see Section 3).

The ground floor of the development will comprise 3 B1 (office/industrial) units. The remaining 4 floors of this 5 storey development will provide 14 residential units: 6 x 1 bedroom, 6 x 2 bedroom & 2 x 3 bedroom, with a likely maximum residential population of around 46 persons. The three B1 units could potentially contain a further 16 people, but only during office hours. It is understood that this development will replace a single storey light industrial unit with an occupancy of around 10 employees.

### **2.2 Existing Residential Developments**

The area around the Bethnal Green gas holders is densely populated, with typical residential population densities of around 200 people / ha. Although there are no very tall buildings, much of the existing housing stock is high rise (typically 5-6 storey) since land is at a premium in this area of East London. It is also noted that a considerable amount of urban regeneration has taken place in the last few decades, in many cases making use of land which had been left derelict since the destruction which took place during the Second World War.

Tower Hamlets Council has provided detailed residential population data based upon the 2001 census. This is given on a ward-by-ward basis, and the information is presented in Appendix A. This shows that there are around 12,600 residents within 500m of the gas holder station. Information drawn from this appendix has been used within the RiskTool model to determine the Societal Risk associated with the gas holder site (see Section 4).

Whilst much of the residential population is separated from the gas holder site by the various industrial and commercial units, there are exceptions. In particular, it is noted that the old Council Depot to the north of the site has been redeveloped, and that housing now exists along the extended Wharf Place right up to the National Grid site boundary.

**2.3 Existing Industrial and Commercial Developments**

Although the area within 500m of the gas holder station is primarily residential, it also includes industrial, commercial and retail units. For example, review of the population data in Appendix A shows that there are some areas within which the population density is extremely low for this densely populated area. This is at least partly accounted for by the presence of industrial and commercial units adjoining the eastern, southern and western boundaries of the National Grid site.

In addition to the gasholder site, other relevant sites have been identified from the local map, and the non - residential (employee) population information has also been included (to be applied only during normal office hours) in the Societal Risk calculations.

**2.4 Sensitive Populations**

There are also some facilities within the area which are provided for specific community use. These include:

- schools
- hospitals
- day centres
- surgeries
- nurseries

Such facilities are likely to be used either by large numbers of people, or by more sensitive populations (e.g. the elderly or the very young). They have therefore been identified separately in Appendix A, and this sensitive population information has also been included in the Societal Risk calculations. For hospitals, the populations have been included for 24 hours per day (as for the residential population); for all other cases they have been included only during normal office hours.

It is noted in particular that there are two such facilities which are close to the gas holder site, both adjoining Marian Place, to the west of the site:

- St Peter’s North Community Centre
- Pritchard Road Day Centre

### 3. THE HSE LAND USE PLANNING SYSTEM

#### 3.1 Summary of Land Use Planning Methodology

In order to understand how the land use planning system operates, it is important to have a clear understanding of the key terminology.

A **hazard** is simply an item of equipment or process which could lead to harm, i.e. it is the thing which presents the risk, such as a fuel tank or pipeline containing a hazardous substance.

A **risk** is the chance of specified level of harm occurring, such as the chance of fatality per year.

There are two main types of risk which may be relevant:

The **individual risk** is the chance of a particular individual incurring a specified level of harm (e.g. fatality). Individual risks are generally calculated for a hypothetical individual at a particular location, such as a member of a residential population who spends all their time at home, or a worker who spends say 25% of their time at a work location. Individual risks are often quoted in cpm (chances of occurring per million years).

The **societal risk** is a more complex measure which reflects the likelihood of numbers of people being affected in a particular event.

The societal risk can be characterised in a number of ways:

**f-n pairs** – A series of pairs of values for every possible major accident event, each pair giving the frequency (f) of the event and the number (n) of people affected by that event. This approach is rarely presented as there may be hundreds of such pairs.

**FN curve** – A graph which shows the cumulative frequency (F) of all events that could lead to N or more people being affected. This curve is derived from the basic f-n pairs, but is much easier to interpret.

**Expectation Value (EV) or Potential Loss of Life (PLL)** – The average number of people affected per year. It corresponds to the sum of the products of the f-n pairs, and is equal to the area under the FN curve. It provides a simple single measure of the societal risk, and is particularly useful in Cost Benefit Analysis (CBA).

**Scaled Risk Integral (SRI)** – A simple measure of societal risk devised by HSE for considering specific developments, which takes account of the number of people at the development, the risk to which they are exposed, and the area of the development.

The HSE is responsible for providing advice to Local Planning Authorities on proposed developments in the vicinity of major hazard sites in the UK. The HSE uses information provided by the site operators, generally in the Hazardous Substances Consent applications, to define the extents of 3 zones (Inner, Middle and Outer), which correspond to areas of progressively lower levels of risk. HSE's advice is provided through a system known as PADHI (Planning Advice for Developments near Hazardous Installations), and this system has now been disseminated for use by the Local Planning Authorities.

When a planning application is received by the Local Planning Authority (LPA) for a development which falls within the Consultation Distance (which is defined by the outer limit of the Outer Zone), the LPA uses a set of rules to determine the Sensitivity Level (1 to 4) of

the proposed development, and then applies the following decision matrix (Table 3.1, reproduced from PADHI) to determine whether or not HSE would advise against the development, depending on sensitivity and location. The sensitivity levels range from the least sensitive, Level 1 (working populations which could easily respond to emergency actions), to the most sensitive, Level 4 (e.g. the elderly or children, who could not easily respond to emergency actions), with some variations to allow for size and density of developments.

**Table 3.1 - HSE Decision Matrix for Land Use Planning**

<b>Level of Sensitivity</b>	<b>Inner Zone</b>	<b>Middle Zone</b>	<b>Outer Zone</b>
<b>Level 1</b>	Don't Advise Against	Don't Advise Against	Don't Advise Against
<b>Level 2</b>	Advise Against	Don't Advise Against	Don't Advise Against
<b>Level 3</b>	Advise Against	Advise Against	Don't Advise Against
<b>Level 4</b>	Advise Against	Advise Against	Advise Against

It is noted that, although the HSE rules are designed to minimise the number of people exposed, it is possible that they would allow some population types but not others. The main reason for this is related to the 'sensitivity' of the population. For example, although an industrial or commercial development may be allowed within the Inner Zone, this could be deemed acceptable by HSE because:

- a.) The personnel affected would only generally be present for around 25-30% of the time.
- b.) A workforce would be expected to be subject to regular fire drills, would be able-bodied and would be expected to be able to respond in an emergency

**3.2 Major Hazards from Gasholder Site**

The gas holder site is capable of storing around 215t of natural gas. It is used for around 6 months of the year (during winter) as a buffer store to smooth out the peaks of demand, in order to match this demand to a reasonably constant supply. The gas holders are filled during the night, and emptied during the day.

Natural gas comprises around 95% methane. Methane is a highly flammable gas, which can also explode if ignited within a congested region, but will more usually burn without any accompanying high overpressures. It is less dense than air, and hence will begin to rise if it is released into the atmosphere. For this reason, it is less likely to ignite than some other materials, such as LPG (propane/butane) which, since it is denser than air, will disperse at ground level.

Whilst the likelihood of a release of gas is relatively low, there is always a chance that corrosion, structural failure, human error or third party activity could lead to an accidental release. The severity of the incident will depend on the size of the breach, which could be anything from a tiny pinhole to catastrophic rupture. The main types of major accident event which could occur at the gas holder site would result from the ignition of a flammable release and are:

**Fireball** – If a large release of gas is ignited within a few seconds then a large fireball lasting 10 to 15 seconds may be produced, with very high levels of thermal radiation in all directions.

**Jet Fire** – Any ignition of gas will burn back to the point of release and may form a jet fire if the release is under pressure. Depending on the nature of the failure, the jet fire may be directed horizontally or vertically. Jet fires continue to burn for as long as the release of gas is not isolated, and the prolonged thermal radiation (or flame impingement) can lead to significant risks, although the impact tends to be relatively local.

**Flash Fire** – If a release of gas is not ignited within a few seconds of the release, then a cloud of gas will disperse downwind some distance from the point of release. If this cloud then finds a source of ignition, the area covered by the vapour cloud will burn rapidly as a flash fire, with significant risks to all those within the flash fire envelope. The flash fire would probably be followed by a jet fire.

**Vapour Cloud Explosion** – This is similar to a flash fire, except that, if the vapour cloud is in a partially confined area, then the ignition of the cloud could also lead to a vapour cloud explosion (VCE), generating significant levels of blast overpressure, which would present a risk to people beyond the flash fire envelope.

For the gas holder site, the main concern is a major fireball following catastrophic vessel failure, but lesser events, such as flash fires and VCEs, could also have off-site impact. Jet fires tend to be more local in their effects. Since any release from the gas holder will be at low pressure, the 'jet fire' type event will not have significant momentum, and in many cases would form a vertical wall of flame around part of the circumference of the gas holder, described in this assessment as a seal fire. Also, as noted above, the buoyancy of the natural gas will make it less likely to ignite downwind, and this effect has been accounted for in the QRA modelling.

Most credible fire events are relatively limited in extent (see Section 4). However, the worst case events, fireballs which could involve the complete contents of a single gas holder (i.e. up to 92t), can cause significant damage and potential fatality for distances of order hundreds of metres. It is the inclusion of such events, previously considered as 'incredible', which has caused HSE to increase their Consultation Distance at this site from 60m to around 300m.

### **3.3 Application of PADHI to Proposed Development**

The primary risk which has been identified at the site is a fireball, either from a complete holder collapse (100% of holder contents involved), or from a decoupled seal (50% of holder contents involved). In practice, the decoupled seal events are taken by HSE to define the land use planning zones since complete holder collapse events are much less likely.

A fireball could occur as the result of the immediate ignition of a large volume of gas released to the atmosphere. For the quantities of gas within the Bethnal Green gas holders, the fireball radius (FBR) is of order 100m, and the duration of the event is around 15 seconds. The effects of a fireball are as follows:

- a) Within the FBR, there is a high probability that anyone exposed, either outdoors or indoors, could become a fatality. This is taken as the boundary of the Inner Zone.
- b) The next level of hazard relates to a normal person exposed outdoors receiving a 'Dangerous Dose', which is a combination of thermal radiation (I, in units of kW/m<sup>2</sup>)



and exposure time (t, seconds) such that  $I^{4/3}t = 1000$  thermal dose units (tdu). This is taken as the boundary of the Middle Zone.

- c) The final level of hazard relates to a sensitive person exposed outdoors receiving a 'Sensitive Dose', which is set at  $I^{4/3}t = 500$  thermal dose units (tdu). This is taken as the boundary of the Outer Zone.

The use of the PADHI matrix shown in Table 3.1 then requires an assessment of the sensitivity category of the development. From the PADHI sensitivity table (see excerpt in Appendix B), it can be seen that up to 30 units of housing would be considered to be Sensitivity Level 2 (DT2.1). There is an exception, however, such that the housing density should not exceed 40 units/ha. In this case, there are 14 units in an area of 0.056ha, which gives a density of around 250 units/ha, and therefore moves the development into Sensitivity Level 3 (DT2.1X3). From Table 3.1, it can be seen that this would be allowed within the Outer Zone, but would not be allowed within the Middle or Inner Zones.

The Inner Zone extends to around 100m from the centres of the gas holders, and, as can be seen in Figure 2.3, the proposed development is completely covered by this zone. It is also noted that the earlier HSE assessments gave a Consultation Distance of 60m from the edge of the larger gas holders. In either case, the HSE screening tool would provide an initial 'Advise Against' decision.

As an alternative to the above hazard-based approach, HSE also use the concept of Dangerous Dose, which is sometimes taken to represent a probability of fatality of around 1% for an average population, but is generally taken to correspond to a level of harm which would cause:-

- Severe distress to almost everyone.
- A substantial fraction of the exposed population needing medical attention.
- Some people to be seriously injured, requiring prolonged treatment.
- Any highly susceptible people possibly being killed.

When HSE use this concept, they determine the risk to an individual of receiving a Dangerous Dose or more of whatever harm is being considered. The Inner Zone is then set at 10cpm of exceeding the Dangerous Dose, the Middle Zone at 1cpm, and the Outer Zone at 0.3cpm. It is noted, however, that Societal Risk calculations are generally based on the risk of fatality.

## **4. ASSESSMENT OF RISKS FROM GASHOLDER SITE**

### **4.1 Site Description**

National Grid's Bethnal Green gas holder site occupies an area of around 150m x 150m to the SW of Regents Canal in the northern part of the borough of Tower Hamlets. It includes 4 gas holders of the cup and grip water seal type, each of which consists of a series of co-axial cylinders which are able to rise and fall depending on the quantity of gas to be stored. Each cylinder is sealed against the next one by a series of water-filled troughs which are replenished as each seal drops back into the bottom cylinder, which acts as a reservoir. The details of the gas holders are as follows:

- No 1            4 lifts    26 t capacity
- No 2            2 lifts    19 t capacity
- No 4            3 lifts    78 t capacity

- No 5            3 lifts    92 t capacity

The typical operational profile for a gas holder is as follows. Gas holders are not used for 5-6 months in a year so they are at minimum stock level. The gasholders are in operation for 6-7 months in the year and the normal operating model is that the gasholders are filled and emptied on a diurnal cycle; they are filled from approximately 22.00 hours to 06.00 hours and emptied from 06.00 hours to 22.00 hours.

In addition to the gas holders, there is pipework connecting this storage to the main gas network. Most of this pipework is 36" diameter and is buried, although there are some smaller sections of 24" and 30" diameter above ground. There is around 600m of pipework on the site above and below ground, together with a number of valves. These valves are mostly situated to the west of the site. Indeed, the closest approach of any overground pipework to the site boundary adjacent to the development at 33 - 37 The Oval is around 70m. The gas holders and much of the pipework are at low pressure, although there is some of the distribution pipework which is up to around 7 bar.

**4.2 Existing Assessments**

**4.2.1 HSE**

The assessment undertaken by HSE is based upon their standard methodology as described in Section 3.3. The reasons for using the specific event (decoupled seal resulting in fireball involving 50% of maximum contents) as a basis for setting the zones are based upon a recent review of gas holder accident statistics. This review identified a number of such large ignited events in the early part of the 20<sup>th</sup> century, and used these to demonstrate that such events were credible enough to form the basis of the Land Use Planning Zones.

It should be noted that HSE's assessment on this basis primarily considers 'credible' consequences, and does not constitute a complete Quantified Risk Assessment (QRA); in order to do so, it would have to include some of the lesser events which have higher frequencies but shorter hazard ranges. Whilst this would not affect the planning zones significantly, inclusion of such events is relevant to the risk at locations close to the gas holders, such as the development under consideration at The Oval.

In summary, therefore, it is emphasised that the HSE assessment is primarily a high-level screening tool which allows simplified and consistent responses to be made to individual planning cases.

**4.2.2 National Grid COMAH Report**

Since the site has potential hazardous storage which exceeds the COMAH threshold, a Safety Report, demonstrating that the risks are being managed to a level which is As Low As Reasonably Practicable (ALARP), has been produced by the operator, National Grid. This document includes a section on 'Hazard Information', which identifies possible accidental events, and provides estimates of the effects of such events. A copy of the relevant section (Section 4), together with the hazard range contours from Appendix 5, was supplied by National Grid in order to assist with this assessment.

The events considered are:

- Split in 750mm medium pressure pipework
- Release through water tank seal

- Cup and grip seal failure
- Fracture of 750mm pipework
- Fracture of 600mm pipeline
- Decouplement
- Total loss of inventory of gas holder
- Gasholder internal explosion (Split Crown explosion)
- Release of gas holder water
- Firewater runoff

The last two of these were included in order to cover potential environmental effects, and will not be considered in this study. For the remaining cases, calculations were provided, where appropriate, of the dispersion of gas releases in wind speeds of 2, 5 & 10 m/s, so that worst case effects could be identified. Distances to the Lower Flammable Limit (LFL) were given, which showed the hazard ranges for flash fires.

Results for fires were presented in the form of distance to the following effects:

- 1000 tdu, representing serious injury or 1% fatality probability
- 1 kW/m<sup>2</sup>, representing minor burn injury (skin blistering)
- 15 kW/m<sup>2</sup>, representing piloted ignition of wood

Results for explosions were presented in the form of distances to the following effects:

- 40 mbar, representing 90% window glass breakage
- 200 mbar, representing serious structural damage to buildings

The greatest hazard ranges occur for total loss of inventory of gas holder, for which minor burn injury distances ranged from 320m for Gas Holder 2 to 580m for Gas Holder 5. These are closely followed by the hazard ranges for decouplement, for which minor burn injury distances ranged from 250m for Gas Holder 1 to 350m for Gas Holder 5. (Gas holder 2, containing only 2 lifts, was not considered to be capable of decouplement.) The cup and grip seal failure events gave minor burn injury distances which ranged from 71m for Gas Holder 1 to 90m for Gas Holder 5. The release through water tank seal events gave minor burn injury distances of around 40 - 60m.

The greatest hazard ranges for releases from pipework are a dispersion distance of 77m (flash fire distance), and 57m for minor burn injury, both associated with the fracture of 750mm pipework. The gasholder internal explosion events gave hazard ranges for 90% window glass breakage which ranged from 120m for Gas Holder 2 to 205m for Gas Holder 4.

The information which was supplied did not include any estimates either of the frequency of these events, nor of their severity (i.e. number of people affected). Both these issues are important in the present context, since most of the large hazard range events would have extremely low frequencies. In addition to this, the ranges of many of the smaller events would either not extend beyond the gas holder site, or would only affect small numbers of people occupying nearby industrial premises.

#### 4.2.3 Institution of Gas Engineers

Whilst not an assessment which is specific to this site, the Institute of Gas Engineers and Managers has produced a publication (Reference 1) which provides safety recommendations in relation to developments around gas holder sites. These set a distance of 18m within which buildings would not normally be allowed, on the basis that gas released from minor leaks on the gas holder seals could be drawn into any building within this distance and reach an ignition source. This rule of thumb is based upon calculation of the dispersion of gas from typical seal leaks in a range of credible wind speeds.

For example, it is found that the lighter-than-air methane will rise at low to moderate wind speeds, and is only likely to affect low level locations beyond 18m in high wind speed conditions which are relatively rare. The 18m value is derived from the dispersion calculations for a 5m/s wind in neutral (D stability) conditions, which is generally typical for prevailing winds in the UK (see Section 4.4.2).

### 4.3 Hazard Identification/Screening

The National Grid COMAH Report for the Bethnal Green site (Reference 2), along with the HSE Safety Report Assessment Guide for Methane Gas Holders (Reference 3), have been reviewed as part of the Hazard Identification process. The following represents a complete list of generic gas holder hazards, which have been identified within either of these reports;

- Catastrophic gas holder failure - 100% contents into fire ball / flash fire
- Split crown accident - 100% contents into fire ball / flash fire
- Decoupled lift - 50% contents into fire ball / flash fire
- Water seal failure over 10m - seal fire / flash fire
- Waterless seal failure - internal explosion
- Puncture of holder, 1m diameter - wall fire / flash fire
- Overfill - ignited flare
- Filling/export line failure at worst case locations
- Pipeline rupture - fireball / jet fire / flash fire / Vapour Cloud Explosion (VCE)
- Pipeline puncture - fireball / jet fire / flash fire / VCE
- Pipeline small leak - jet fire / flash fire
- Pressure regulator failure – VCE

Of the list of generic hazards above, a number of hazards are not considered to be credible at the Bethnal Green site. These hazards omitted from this QRA have been identified in Table 4.1 below along with a justification for their exclusion.

#### Table 4.1 - Hazards excluded from consideration within this study

Hazard description	Justification for exclusion of hazard
Catastrophic holder failure / Decoupled lift - flash fire	The density of methane (and hence its buoyancy) is such that any instantaneous release of a large volume would rise at such a rate as to clear the dispersing cloud of any potential delayed ignition source. (Note that instantaneous ignition is considered with the fireball event, and the consequences of any other ignited release would be bounded by that event).
Split crown - flash fire	Split crown events are caused by over extraction of gas from the holders, which creates abnormal stresses on the domed head of the holder in a near empty scenario. In this instance it is hard to envisage a release of a significant volume of methane from the gas holder.
Waterless seal failure - internal explosion	The gas holders in question are water sealed.
1m diameter puncture of holder wall	The causes of such an event are considered extremely unlikely. The holders are protected by concrete bollards and the perimeter of the site is fenced off from public access. Catastrophic failure of the holders has been considered to account for failure by earthquakes, aeroplane collision etc. Note that the National Grid COMAH document for the Bethnal Green site has also omitted this event.
Pipeline puncture - fireball / jet fire / flash fire / VCE	For the purpose of Location Specific Individual Risk calculations, these events are bounded by the rupture of the 30" diameter pipework at the worst case location.
Pipeline small leak - jet fire / flash fire	For the purpose of Location Specific Individual Risk calculations, these events are bounded by the rupture of the 30" diameter pipework at the worst case location.
Pressure regulator failure – VCE	For the purpose of Location Specific Individual Risk calculations, these events are bounded by the rupture of the 30" diameter pipework at the worst case location.
Decouplement of Gas Holder No. 2 only	This gas holder comprises two lifts which makes decouplement highly unlikely. Note that this is consistent with the National Grid COMAH document for the Bethnal Green site.

The list of hazards considered within this Quantitative Risk Assessment is therefore:

- Catastrophic failure - fireball
- Split crown - VCE
- Decouplement of lifts - fireball
- Water seal failure - seal fire
- Water seal failure - flash fire
- Overfill jet fire
- Pipework rupture - flash fire
- Pipework rupture - VCE

- Pipework rupture - jet fire

**4.4 QRA input data**

The following is a summary of the key inputs into the Atkins Quantitative Risk Assessment software RiskTool, which has been used for many similar assessments, and has also been used in some recent studies for HSE.

**4.4.1 Population Information**

The population data supplied by Tower Hamlets are given in Appendix A. These are used in the RiskTool modelling in different ways, depending upon the amount of time particular groups are likely to be present. For example, it is assumed, as a worst case, that the residential population will be present for 100% of the time, whereas the employee population will only be present during the working day. The major hazard events which have been modelled may also have different effects depending on whether the persons affected are indoors or outdoors. The risk modelling takes this into account, and assumes the following:

**Table 4.2 - Assumptions on population locations**

<b>Time Period</b>	<b>Indoor</b>	<b>Outdoor</b>
Day time	90%	10%
Night time	99%	1%

The situation for sensitive populations is not so simple. For example, schools and day centres will only generally be occupied during the day, whereas any hospital / care institutions would be occupied 24 hours per day. The only such facility considered in Appendix A is St Joseph’s Hospice, for which the ‘residential’ assumption is used. All other sensitive locations identified will be treated in the same way as for the employee population, and will be considered to be present only during the day time.

**4.4.2 Weather data**

Some of the events identified involve the dispersion of gas released from pipework, or from the gas holders. The consequences of such releases will depend upon the wind speed and direction, and dispersion modelling has been undertaken for typical and worst case conditions. These are F2, D5 and D8 conditions, where the notation, which is standard in this context, is:

- F - Stable conditions (light wind, little mixing)
- D - Neutral conditions (higher wind, turbulent mixing)
- 2 - Wind speed = 2 m/s
- 5 - Wind speed = 5 m/s
- 8 - Wind speed = 8 m/s

The low wind speed (F2) is chosen since it normally represents a worst case, in which the mixing is suppressed. In this case, any gas released will rise because of the buoyancy effects, but could become deflected back towards ground level (where it is more likely to

encounter an ignition source) in higher wind speeds; hence the use of the extra D8 weather category.

Wind directional probabilities are taken from Heathrow Airport data, and are shown in Table 4.3 below. The direction represents that from which the wind is blowing.

**Table 4.3 - Wind directional probability**

<b>Wind Direction (° from N)</b>	341 - 10	11-40	41 - 70	71-100	101-130	131-160	161-190
<b>Probability (%)</b>	7.57	9.50	6.24	4.99	3.87	3.54	8.26

<b>Wind Direction (° from N)</b>	191-220	221-250	251-280	281-310	311-340	Calm	Total
<b>Probability (%)</b>	15.04	13.39	10.97	7.22	7.12	2.26	99.97

The probabilities associated with the wind speed conditions identified above are:

- F2 - 20%
- D5 - 79%
- D8 - 1%

It is noted that the National Grid COMAH document uses D10 as the high wind speed condition. However, since analysis of the Heathrow data indicated that such high values were of extremely low probability, the D8 category was chosen on the basis that it would be expected for around 1% of the time.

**4.4.3 Harm criteria**

This QRA has been undertaken to determine the risk of fatality to people either indoors or outdoors. The criteria applied depend on the type of effect and the type of event, and there is also some allowance made for the protection afforded by being indoors. These criteria are set out for the various event types below.

Risks of fatality have been calculated using probit equations (Reference 5), which relate the dose received to the probability of a particular level of harm, such as fatality. The probit is a non-dimensional number which relates to a specific probability of fatality via the Normal Probability Distribution, as shown in Table 4.4.

**Table 4.4 - Relationship between probit and fatality probability**

<b>Probit</b>	<b>Probability of Fatality</b>
2.67	1%
5.00	50%
7.33	99%

The precise relationship between the probit Y and probability is defined by:

$$Probability = \frac{1}{\sqrt{2\pi}} \int_{u=-\infty}^{u=Y-5} \exp\left(-\frac{u^2}{2}\right) du$$

where u is an integration variable.

**Explosion**

The blast overpressure and impulse effects associated with vapour cloud explosion events have the potential to cause injury/fatality to building occupants by:

- causing building collapse;
- generating missiles which impact the occupants; or
- propelling occupants against structures.

To predict the probability of occupant fatality due to explosion effects, vulnerability curves are presented in Reference 4. These curves depict the relationship between the peak side-on blast overpressure and the probability of occupant fatality for 4 different building types:

- 1 - Hardened structure building: special construction, no windows.
- 2 - Typical office block: four storey, concrete frame and roof, brick block wall panels.
- 3 - Typical domestic building: two storey, brick walls, timber floors.
- 4 - ‘Portacabin’ type timber construction, single storey.

The curve chosen (Curve 2) is considered to be representative for the proposed development, as can be seen from Figure 2.2.

For those personnel outdoors, a probit relationship is used to estimate the probability fatality resulting from the predicted level of blast overpressure. The probit implemented into RiskTool is:

$$Probit = 1.47 + 1.35 \ln(P), \quad \text{where : } P = \text{overpressure (psi)}$$

**Fireball, jet fire, seal fires**

Scenarios involving the release and ignition of flammable substances have the potential to cause fatalities by exposing individuals to high thermal radiation “dose” levels.

For fireballs, a probit relationship (Reference 6) is used to estimate the probability of fatality resulting from the predicted thermal dose indoors. The probit implemented in RiskTool is:

$$Probit = -14.9 + 2.56 \ln(tdu)$$

where :

$$tdu = 3150 R^2/x^2 - 150 \text{ (Reference 7)}$$

R = fireball radius (m)



x = distance from fireball (m)

For jet fires, the probability of fatality indoors is assumed to relate to the thermal radiation level outdoors (I) according to the following criteria (Reference 8) :

- I > 25.6 kW/m<sup>2</sup> outdoors                      implies 100% fatality indoors
- 14.7 < I < 25.6 kW/m<sup>2</sup> outdoors            implies the same fatality probability as outdoors (i.e. people indoors would try to escape)
- I < 14.7 kW/m<sup>2</sup> outdoors                      implies 0% fatality indoors

For those personnel not located in buildings, the same thermal dose response probit relationship is used to predict the probability of fatality from all thermal radiation effects. However, in this case, the outdoor thermal dose is used ( $tdu = I^{4/3} \times t$ ) (Reference 9).

An exposure time (t) is required in order for the probability of fatality to be derived, and this is an output only from the fireball model. However, for this assessment an exposure time for the effects of jet fires of 20 seconds is used for persons located outdoors, after which time it is assumed that they will have escaped to a place of safety (Reference 10).

**Flash fires**

In general, flash fires only present a hazard to those personnel trapped or located within the flammable envelope of the cloud, although flame penetration may also occur through open or failed windows and doors. For people adjacent to a window, it is reasonable to assume that the effects of flame penetration will be the same as if they were outside. For people not adjacent to windows, the direct effects of flame penetration are not so easily defined.

Even if flame penetration does not occur, occupants may be exposed to heat radiated through windows. The resulting thermal dose may be sufficiently high to cause 50% fatality for an average population adjacent to the window, although the thermal dose drops significantly (equivalent to less than 1% fatality at 0.7 m) away from the window (Reference 11).

In the event of a flash fire, approximately 5% of those who are sheltered by typical domestic housing will be fatalities as a result of secondary fires (Reference 9). Based on the above discussion, the probability of fatality indoors, within the outdoor LFL envelope, is taken to be 10% (best estimate).

For those persons located outdoors, it is assumed that if they are located within the potential envelope of the un-ignited cloud (i.e. the area covered by the LFL), then the probability of fatality is 1 in the event of ignition (Reference 12).

**Dangerous Dose criteria**

Risk calculations have also been undertaken using the ‘Dangerous Dose’ concept, for direct comparison with the way in which HSE set the planning zones (see Section 3.3). The criteria used for this part of the assessment are given below:

	<b>Outdoor</b>	<b>Indoor</b>
Fireballs	1000 tdu	1000tdu

VCEs from holders	140 mbar	140 mbar
Seal fires and jet fires	1000 tdu	1000 tdu
Flash fires	100% in cloud envelope	0% in cloud envelope

**4.5 Consequences of Major Hazard Events**

This section represents a summary of the manner in which the major hazards have been modelled in order to determine their consequences.

The Quantitative Risk Assessment carried out has been based on a limited amount of available site data. In a small number of instances, where site data have been insufficient to determine hazard consequences, the consequence results of the National Grid COMAH study have been replicated within this report by adjusting modelling inputs. Below is a summary of the data which have been obtained in this manner;

- 1 The release rate from seal leaks has been taken as 1.35m<sup>3</sup>/s per metre of water seal (as per Reference 13).
- 2 The release rate from pipework ruptures has been matched to National Grid dispersion results to give 15 kg/s from a rupture of the 30" line. Note that the 36" pipe line at the site is buried beneath the ground.
- 3 The overpressures created by split crown VCE events have been calculated using 1.5% of the volume of the gas holder maximum working capacity. This value has been taken based upon matching the 'distance to overpressure' results presented by the National Grid.

For consequences which depend on the wind, the conditions used have been taken as F2, D5, D8 (see Section 4.4.2).

**4.5.1 Fire Modelling**

**Fireballs**

For the purposes of this study, the fireball resulting from a catastrophic failure being ignited immediately has been assumed to involve the full contents of the gas holder (50% for decouplement events). The fireball has been assumed to be just touching the ground and to have a diameter (D) given in terms of the mass of fuel M<sub>F</sub> (kg) (Reference 14) by:

$$D = 5.8 M_F^{1/3} \text{ (metres)}$$

The fireball duration (T) in seconds is given as (Reference 15):

$$T = 0.45 M_F^{1/3} \quad \text{for } M_F < 37,000 \text{ kg}$$

$$T = 2.59 M_F^{1/6} \quad \text{for } M_F > 37,000 \text{ kg}$$

The level of thermal radiation has been based on the solid flame model as described by Crossthwaite (Reference 7). The thermal radiation is given by:

$$I = F E t_a$$

where:

$$I = \text{Thermal radiation intensity (kW/m}^2\text{)}$$

F = View Factor

E = Surface emissive power (kW/m<sup>2</sup>).

t<sub>a</sub> = Atmospheric transmissivity, taken as 1 – 0.0565 ln(x – R) for x>R+1

x = Horizontal distance between receptor and fireball centre (m)

R = Fireball radius (m)

### Flash fires

For flash fires, dispersion to the Lower Flammable Limit values has been modelled using the HGSYSTEM HEGADAS-S code within CIRRUS, with a surface roughness of 0.3m to represent the suburban environment.

The consequences of flash fires are calculated in terms of the flammable gas concentration versus distance, with the length of the region covered by the flash fire taken to be the distance to the Lower Flammable Limit. Within the modelling, the effects of flash fires are represented as a step function; i.e. the probability of fatality outdoors within the cloud area is one, whereas outside the cloud area it is zero. No account has therefore been taken of any distance/heat radiation decay relationships when assessing flash fire hazards. For indoor populations, the probability of fatality is 10% within the LFL envelope, and 0% outside of this boundary.

### Jet fires

Jet fires have been modelled using the SHELL Chamberlain Jet Flame Model which has been coded within the Atkins RiskTool computer code.

### Seal fires

Thermal radiation from seal fires has been modelled using a simple 'point source' model. Modelling has assumed a release rate of 1.35m<sup>3</sup>/s per meter of water seal (as per Reference 13). A value of 0.3 has been taken as the proportion of the heat of combustion emitted from the fire.

## 4.5.2 Explosion Modelling

### Vapour cloud explosions

The consequences of vapour cloud explosions have been modelled using the TNO 'Multi-Energy' model (Reference 16), with explosion strength 7. The overpressure effects from the explosion are determined by the material involved in the explosion and the volume of the gas cloud. This volume has been estimated on the basis of the lateral and vertical extent of flammable clouds suggested by dispersion modelling, and by the estimated volume of nearby congested plant areas where build-up of gas is possible, as follows:

For VCE from a pipeline release, the combustible volume was calculated based upon site drawings, and estimation of the volume of congested areas close to the source of the leak (between the 'valve room', 'MEG storage tank' and Gas Holder 4. The stoichiometric mixture of the cloud of air/methane was then used in explosion calculations. Where the estimated flammable cloud volume was less than the maximum congested volume, the calculated lower value was used in the explosion modelling.

### Split crown explosions

The overpressures created by split crown VCE events have been calculated using a 1.5% volume of the gas holder maximum working capacity. This value has been taken based upon a back calculation from the 'distance to overpressure' results presented within the National Grid COMAH report.

**4.6 Frequencies of Major Hazard Events**

**Base event frequencies**

The base case frequencies for the hazards considered are summarised below. These frequencies relate to the unignited releases, except where otherwise indicated. The probability of ignition for the various events is described later in this section.

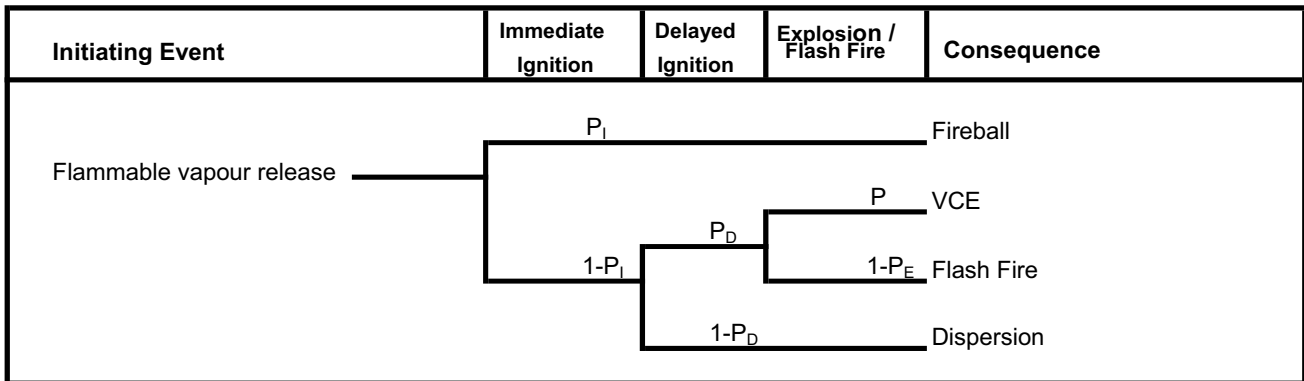
**Table 4.5 - Initiating event frequencies used in QRA**

ID	Initiating event	Frequency ( / holder / yr)	Reference for initiating frequency
a	Catastrophic vessel failure	2.00E-06 <sup>+</sup>	Appendix C Table C7
b	Split crown event	1.00E-06 <sup>+</sup>	See 'Ignition probabilities' section below
c	Decouplement of lifts	2.00E-05 <sup>+</sup>	Appendix C Table C7
d	Seal failure	1.40E-03	Appendix C Table C5
e	Overfill event	5.60E-04	Appendix C Table C5
f	Pipework rupture	3.10E-04	Reference 17
g	Pipework major leak	8.47E-03	Reference 17
h	Pipework minor leak	8.08E-02	Reference 17

+ value includes probability of ignition

The following diagram shows a graphical representation of the events which may follow a flammable vapour release. Each branch of this event tree represents a different conditional probability of ignition.

**Flammable release event tree**



**Ignition probabilities**

The ignition probabilities for the catastrophic failure and decouplement events (labelled a and c in Table 4.5 above) have already been factored in to the event frequencies calculated from historical data in Appendix C. For the case of a split crown VCE event, an ignited split crown event frequency of  $10^{-6}$  has been used, based upon the re-assessment which HSE has quoted in some of their more recent Panel Papers. For the remaining continuous release events, the ignition probability varies depending upon the release rate. These ignition probabilities have been calculated using Reference 17 and are summarised below in Table 4.6.

**Table 4.6 - Ignition probabilities used for continuous releases (Reference 17)**

Ignition event	Release rate (kg/s)	Ignition Probability	
		Immediate	Delayed
Gas holder 1 overflow	0.79	4.19E-03	*
Gas holder 2 overflow	0.58	3.98E-03	*
Gas holder 4 overflow	2.35	5.05E-03	*
Gas holder 5 overflow	2.84	5.21E-03	*
Gas holder 1,2,4,5 seal fail	9.20	6.42E-03	5.97E-02
30" pipe release	15.00	6.92E-03	8.07E-02

\* All such events considered to be immediate ignition

**Wind direction**

Historical data taken from Heathrow airport weather station have been used to determine the probability of the wind blowing from various sectors of the wind rose. These data are represented in Table 4.3 above.

**Seal fire probability**

Seal fires could occur at any point on the circumference of the gas holders. In order to keep the total number of events modelled in RiskTool manageable, each gas holder has been divided into 4 quadrants, and the seal fire probability split equally between each location. For offsite risk determination, not all of these points on the circumference of each holder will radiate outwards from the gas holder site in the case of a seal fire. Therefore the quadrants have been arranged using site plans to ensure that the offsite effects (in particular those at the development site, and at other nearby densely populated sites) are realistically and conservatively modelled.

**4.7 Overall Risk Assessment**

**4.7.1 Presentation of results**

The following is a summary of the frequency and consequence data used in the Quantitative Risk Assessment (Table 4.7).

**Table 4.7 - Summary of Frequency and Consequence Data for all hazards analysed**

Vessel	Event	Frequency with ignition (/yr)	Consequence criterion & units	Approx hazard range to criterion (m)
GH1	Catastrophic failure fireball	2.00E-07	FB radius	82.0
GH1	Decouplement fireball	2.00E-06	FB radius	65.0
GH1	Seal failure seal fire	6.75E-06	1000 tdu	23.0
GH1	Overfill jet fire	2.35E-06	1000 tdu	31.0
GH2	Catastrophic failure fireball	2.00E-07	FB radius	74.0
GH2	Seal failure seal fire	6.75E-06	1000 tdu	23.0
GH2	Overfill jet fire	2.23E-06	1000 tdu	28.0
GH4	Catastrophic failure fireball	2.00E-07	FB radius	118.0
GH4	Decouplement fireball	2.00E-06	FB radius	94.0
GH4	Seal failure seal fire	6.75E-06	1000 tdu	23.0
GH4	Overfill jet fire	2.83E-06	1000 tdu	44.0
GH5	Catastrophic failure fireball	2.00E-07	FB radius	126.0
GH5	Decouplement fireball	2.00E-06	FB radius	100.0
GH5	Seal failure seal fire	6.75E-06	1000 tdu	45.0
GH5	Overfill jet fire	2.92E-06	1000 tdu	30.0
30"	Pipework rupture jet fire	2.14E-06	1000 tdu	107.0
GH1	Split crown VCE	1.00E-06	200 mbar	44.0
GH2	Split crown VCE	1.00E-06	200 mbar	39.0
GH4	Split crown VCE	1.00E-06	200 mbar	60.0
GH5	Split crown VCE	1.00E-06	200 mbar	67.0
30"	Pipework rupture VCE	3.74E-06	200 mbar	60.0
GH1	Seal failure flash fire (F2)	1.12E-05	5% vol	18.6
GH1	Seal failure flash fire (D5)	4.41E-05	5% vol	13.7
GH1	Seal failure flash fire (D8)	5.58E-07	5% vol	11.5
GH2	Seal failure flash fire (F2)	1.12E-05	5% vol	18.6

Vessel	Event	Frequency with ignition (/yr)	Consequence criterion & units	Approx hazard range to criterion (m)
GH2	Seal failure flash fire (D5)	4.41E-05	5% vol	13.7
GH2	Seal failure flash fire (D8)	5.58E-07	5% vol	11.5
GH4	Seal failure flash fire (F2)	1.12E-05	5% vol	18.6
GH4	Seal failure flash fire (D5)	4.41E-05	5% vol	13.7
GH4	Seal failure flash fire (D8)	5.58E-07	5% vol	11.5
GH5	Seal failure flash fire (F2)	1.12E-05	5% vol	18.6
GH5	Seal failure flash fire (D5)	4.41E-05	5% vol	13.7
GH5	Seal failure flash fire (D8)	5.58E-07	5% vol	11.5
30"	Pipework rupture flash fire (F2)	4.24E-07	5% vol	18.6
30"	Pipework rupture flash fire (D5)	1.67E-06	5% vol	13.7
30"	Pipework rupture flash fire (D8)	2.12E-08	5% vol	11.5

The integration of frequencies and consequences from the identified hazards has been conducted using RiskTool. Table 4.8 below gives a summary of the Individual Risk output from the software for the proposed development (nearest & furthest) for a residential population present 100% of the time, and the percentage contribution of each scenario to these risks is also shown. The effective risk for an office worker, present for 25% of the time at the nearest part of the development, will be around 3cpm.

**Table 4.8 - Location Specific Individual Risk Results (cpm) at development**

Location	Development nearest	Development furthest
<b>Risk</b>	<b>11.7 [15.4]</b>	<b>5.7 [8.9]</b>
Fireballs	58%	94%
Split crown VCEs	8%	4%
Seal fires	33%	0%
Jet Fires	<1%	<1%
Flash Fires	<1%	0%
Pipework events	1%	1%

Note: Risks quoted are Individual Risk of Fatality; Risks of receiving a Dangerous Dose or more are given in parentheses []

Since there are uncertainties in the modelling, some sensitivity cases have been undertaken. The variants which have been covered are indicated below, and the results are given in Table 4.9:

- Increased Fireball Freq* Ignition probability increased from 0.1 to 0.5
- Decreased VCE mass %* 0.75% holder volume used (instead of 1.50%)
- CIA building Category 1 or 3* Instead of CIA building Category 2

**Table 4.9 - Sensitivity of Individual Risk Results (cpm) at development**

Location	Development (nearest)		Development (furthest)	
	Fatality	Dangerous Dose	Fatality	Dangerous Dose
Base Case	11.7	15.4	5.8	8.9
Increased Fireball Freq	40.4	51.6	28.4	45.1
Decreased VCE mass%	11.3	15.4	5.6	7.9
CIA building Category 1	10.7	15.4	5.5	8.9
CIA building Category 3	11.9	15.4	6.1	8.9

Estimates of Societal Risk are also given, in the FN curve shown in Figure 4.1.

**4.7.2 Robustness of results**

Risks have also been calculated on a Dangerous Dose basis (see Section 4.4.3), and the results were found to be broadly consistent with the current HSE planning zones. The sensitivity studies reported in Section 4.7.1 have shown that the predicted ranges on a risk of fatality basis are 11-40 cpm at the western site boundary and 6-28 cpm at the eastern site boundary. The value of 11.7 cpm for the base case ('nearest') is therefore considered to be representative of the actual risk of fatality at the development.

A further consideration is the magnitude of the Societal Risk. The FN Curve in Figure 4.1 lies between the HSE comparison lines, as would be expected for most Top Tier COMAH sites. Indeed, because the FN line is around an order of magnitude below the upper comparison line, the site would not be considered to have a particularly high societal risk. This arises because the area close to the gas holder site is currently primarily occupied by industrial or commercial, rather than residential, premises. Figure 4.1 also includes the FN curve for the pre-development case, identified as 'Pre-Development'.

**5. DISCUSSION OF ISSUES**

**5.1 Individual risk considerations**

The individual risk of fatality at 33-37 The Oval is estimated to be around 12 cpm for a typical residential population. This compares with the individual risk of receiving a *dangerous dose* of around 10 cpm (which corresponds to a risk of fatality of around 2-5 cpm) at the inner zone boundary. The results of this assessment are therefore clearly consistent with the screening process which is applied within the PADHI system: i.e. this value is high compared with the level at which HSE would Advise Against for any development containing more than a few people.

It is further noted (see comments below Table 3.1) that the risks to a workforce would be effectively reduced to around 3cpm since any individual would only be present for around 25% of the time. Within certain limits on the numbers of people involved, HSE would therefore not 'Advise Against' such non-residential developments at this location.



**5.2 Comparison with other risks**

In order to help understand the level of risk at the proposed development, it is worthwhile to compare it with historical data on the other risks to which people are typically exposed. HSE’s ‘Reducing Risks, Protecting People’ document (Reference 18) provides some data on the risks to which people are routinely exposed. Some of this information is reproduced below, in terms of risk of fatality as annual experience per million, or chances per million years (cpm).

Annual risk of death (entire population)	10,309 cpm	(1 in 97)
Annual risk of cancer	2,584 cpm	(1 in 387)
Annual risk from all types of accident	246 cpm	(1 in 4,064)
Annual risk from all forms of road accident	60 cpm	(1 in 16,800)
Construction	59 cpm	(1 in 17,000)
Agriculture, hunting, forestry and fishing	58 cpm	(1 in 17,200)
Manufacturing industry	13 cpm	(1 in 77,000)

These risks can be compared with the additional annual risk for the most exposed people at the proposed development of up to about 12 cpm (once in 50,000 years) due to major accidents. For example, the annual risk of death for the most exposed person would increase by about 0.12% (from 10,309 to 10,321 cpm), and this increase would be less than a twentieth of the risk of dying in all types of accident.

**5.3 Levels of Risk and their Acceptability**

Based on the results in Section 4.7 it is estimated that the total level of individual risk of fatality for a resident at the new development is around 12 cpm. In order to set this level of risk in the context of typical major hazard risks, it can usefully be compared with standard risk tolerability criteria. The HSE’s framework for judging the tolerability of risk is represented in Figure 5.1, and described in paragraphs 122 to 124 of R2P2 as follows:

*The triangle represents increasing level of ‘risk’ for a particular hazardous activity (measured by the individual risk and societal concerns it engenders) as we move from the bottom of the triangle towards the top. The dark zone at the top represents an unacceptable region. For practical purposes, a particular risk falling into that region is regarded as unacceptable whatever the level of benefits associated with the activity. Any activity or practice giving rise to risks falling in that region would, as a matter of principle, be ruled out unless the activity or practice can be modified to reduce the degree of risk so that it falls in one of the regions below, or there are exceptional reasons for the activity or practice to be retained.*

*The light zone at the bottom, on the other hand, represents a broadly acceptable region. Risks falling into this region are generally regarded as insignificant and adequately controlled. We, as regulators, would not usually require further action to reduce risks unless reasonably practicable measures are available. The levels of risk characterising this region are comparable to those that people regard as insignificant*

*or trivial in their daily lives. They are typical of the risk from activities that are inherently not very hazardous or from hazardous activities that can be, and are, readily controlled to produce very low risks. Nonetheless, we would take into account that duty holders must reduce risks wherever it is reasonably practicable to do so or where the law so requires it.*

*The zone between the unacceptable and broadly acceptable regions is the tolerable region. Risks in that region are typical of the risks from activities that people are prepared to tolerate in order to secure benefits, in the expectation that:*

- the nature and level of the risks are properly assessed and the results used properly to determine control measures. The assessment of the risks needs to be based on the best available scientific evidence and, where evidence is lacking, on the best available scientific advice;*
- the residual risks are not unduly high and kept as low as reasonably practicable (the ALARP principle – see Appendix 3 [of R2P2]); and*
- the risks are periodically reviewed to ensure that they still meet the ALARP criteria, for example, by ascertaining whether further or new control measures need to be introduced to take into account changes over time, such as new knowledge about the risk or the availability of new techniques for reducing or eliminating risks.*

In terms of providing quantitative criteria to define these regions, paragraph 130 of R2P2 states that:

*“HSE believes that an individual risk of death of one in a million per annum for both workers and the public corresponds to a very low level of risk and should be used as a guideline for the boundary between the broadly acceptable and tolerable regions.”*

Paragraph 132 of R2P2 goes on to consider the boundary between the ‘tolerable’ and ‘unacceptable’ or intolerable region and concludes:

*“For members of the public who have a risk imposed upon them ‘in the wider interests of society’ this limit is judged to be ... 1 in 10,000 per annum”.*

As the risk of fatality for the most exposed people at the new development is considered to be up to about 12 cpm, or once in 80,000 years, it is reasonable to conclude that the maximum risks at the proposed development are about a factor of 12 times the level which would be regarded as insignificant (broadly acceptable), but a factor of 8 below the level at which they would be regarded as becoming intolerable. They are also rather higher than the levels which HSE would consider appropriate for a development of this nature.

#### **5.4 Societal Risk due to Gasholder Site**

In addition to the above individual risks being regarded as significant, it should be remembered that the worst case accident, involving a major fireball, could theoretically result in large numbers of people being affected in a single incident, although the likelihood of such a very severe event is very low (probably of the order of less than once in 120,000 years). This possibility of multiple fatalities may be regarded as a greater concern than the individual risks of around 12 cpm. There are few generally accepted criteria for judging the acceptability of such risks to groups of people, although paragraph 136 of R2P2 states that:

*“HSE proposes that the risk of an accident causing the death of 50 people or more in a single event should be regarded as intolerable if the frequency is estimated to be more than one in five thousand per annum.”*

It is noted that HSE sometimes calculate another measure of societal risk known as the Scaled Risk Integral (SRI), as noted in Paragraphs 3c and 9 of Annex 2, which provides a simple approach which takes account of the most relevant factors. The methodology for calculating the SRI is described by Carter (Reference 19) and Hirst and Carter (Reference 20) as follows:

$$SRI = \frac{P \times R \times T}{A}$$

Where, P = population factor, defined as  $(n + n^2)/2$

n = number of persons at the development

R = average level of individual risk (of exceeding dangerous dose) in cpm

T = proportion of time development is occupied by n persons

A = area of the development in hectares

Taking n = 46 people for 75% of the time and n=62 people (residents + workers) for 25% of the time, R = 12 cpm, and A = 0.056 ha (approximate area), gives:

$$SRI = \frac{(46 + 46^2) / 2 \times 12 \times 0.75}{0.056} + \frac{(62 + 62^2) / 2 \times 12 \times 0.25}{0.056} = 278,400$$

This is only an indicative calculation using maximum numbers of people present. Using a more typical occupancy of 35 people in the residential part of the development gives an SRI of 170,000. Both these results are close to the value of 500,000, above which HSE would consider recommending call-in (see Annex 2, paragraph 3c of R2P2), but they are not sufficiently low that HSE would be unconcerned by the societal risk associated with the development.

Clearly, however, the introduction of up to 62 people at the development will increase the societal risk. This increase can be seen in Figure 4.1, where there is an increase in frequency in the range of 5 - 500 fatalities. The PLL is increased from  $2.77 \times 10^{-3}$  without the development, to  $3.67 \times 10^{-3}$  post-development. It can therefore be seen that the development would increase the PLL by around 32%. It is noted, however, that the post development PLL is still a factor of around 20 below that which applies to the HSE upper comparison limit on Figure 4.1.

**5.5 Potential for Risk Reduction**

The results presented in Section 4 have shown that the Individual Risk at 33-37 The Oval is calculated to be around 12cpm. It has also been shown that there are significant uncertainties in some of the modelling, but that the prediction is considered to be a cautious best estimate. On the basis of the ‘best estimate’ modelling, this risk is derived from the following types of event:

Fireball ≈ 60%

Split crown explosion  $\approx$  10%

Seal fire  $\approx$  30%

It is noted that the current thinking of HSE (as applied to their Land Use Planning zone derivation) would increase this prediction to around 40cpm, split roughly 90:10 between fireball and seal fire, with a small contribution from explosion.

Since any risk reduction measure which could be applied will depend upon which type of event is to be mitigated against, a brief discussion of the issues associated with each event type is given below:

**Fireball** - This is a short duration but very intense event. The fireballs from the adjacent gas holders are likely to be sufficiently large that they envelop the building. In such cases, there is little which could be done to mitigate the effects.

**Explosion** - In many cases, the risks from explosions are exacerbated by glass breakage. One potential for mitigation would therefore be to specify high strength or shatter-proof glass. In this case, however, the development is within the range where it is likely that some structural collapse would result, for which the only mitigation would be to provide a 'hardened' type of structure, which is likely to be inappropriate for a residential development.

**Seal fire** - The effects of thermal radiation from a seal fire will last for rather longer than the tens of seconds expected for a fireball. There is therefore the potential for evacuation, and escape routes should be provided which enable residents to reach a place of safety without being exposed to more radiation than necessary.

Other features of the development which could impact on the risks are:

**a.) Use of roof terraces**

While there would be no mitigation possible against a fireball, the risk outdoors may not be significantly greater than that indoors. For the explosion event, the risk at a general location outdoors could be slightly reduced (since most of the risk arises from being *inside* a building which collapses), although this would at best be a marginal effect for occupants of the roof terraces. In the case of the seal fire, it is possible that terrace occupants could escape indoors, and then evacuate from the building at ground level.

In practice, however, one of the key risk reduction factors is expected to be control of ignition sources close to the gas holder. The terraces at two levels (1<sup>st</sup> floor and 4<sup>th</sup> floor) should therefore be considered in relation to controlling ignition sources. Ideally, both should be removed or made inaccessible for normal use. It is recommended that the lower terrace, which is within 18m of the gas holders, is removed; if it is not possible to remove the upper level terrace, then ignition source restrictions should be applied, since there is the potential for a greater travel distance of a flammable cloud at this higher level. This could take the form of appropriate signage advising against smoking and the use of barbeques when the adjacent gas holders are in use (i.e. during the winter months). In view of both the greater distance from the gas holders, and the intervening presence of the building, no similar restrictions need to be applied to any terraces at the front of the building.

**b.) Design of boundary wall**

The thermal radiation from a fireball originates from a point which is around 100m above ground level. Thus most of the radiation would be downwards and would not be mitigated by a boundary wall. The same would apply for a seal fire, which could occur at any water-seal position. The explosion event will originate from ground level, and in principle its effects could be reduced by appropriate design of a boundary wall. However, the calculations

indicate that overpressures of around 930mbar may be expected at the boundary; any wall designed to deflect such a blast would need to be at least half the building height, and is likely to be prohibitively expensive.

It is understood, however that the rear boundary wall will be 5.2m high, and will have no openings. This would ensure that any low level gas releases would be deflected upwards by the presence of this wall as well as by its buoyancy. Moreover, this would be true of all wind conditions, including those higher wind speeds which would otherwise deflect the cloud towards the ground.

**c.) *Minimising potential for gas ingress***

The risk is reduced if any gas released is unable to encounter an ignition source. This can be achieved by minimising the openings facing the gas holders, and ensuring that any which are within 18m are protected, as noted above, by the boundary wall.

**d.) *Installation of shatter-proof glass***

One of the contributors to the risk is explosion. Since much of the injury potential is from flying glass, the effects of explosion can be reduced by ensuring that the glass in any windows facing the gas holders is shatterproof. This can be achieved either through use of specialist glass from a supplier such as Romag, or by application of window film such as Llumar to the internal face of the glazing.

**e.) *Provision of adequate means of evacuation***

In the event of a fire on one of the gas holders, the thermal radiation at the rear of the building is likely to be sufficiently intense that evacuation would be impeded. The building design should therefore ensure that all occupants, including those using the terraces, can be evacuated safely to the front of the building.

***Summary of desirable design features:***

- 1) Ensure impermeability of rear wall up to 5m height.
- 2) Minimise window openings facing gas holders within 18 metres of the holder or where not protected by the rear wall.
- 3) Specify heat/blast resistant or shatterproof glass for windows facing gas holders.
- 4) Prevent the use of the lower level rear-facing roof terraces.
- 5) Display signage restricting the use of ignition sources on the upper level rear-facing roof terraces when gas holders are in use.
- 6) Ensure adequate provision is made for evacuation to the front of the building in the event of minor fires.

**6. SUMMARY AND CONCLUSIONS**

The current PADHI system (see Section 3.3) is based upon consideration of individual risk, although HSE is currently considering ways in which they can also address societal risk issues around major hazard installations. As part of their considerations, there is a recent consultative document, CD212 (Reference 21), against which they requested responses from interested parties by 2<sup>nd</sup> July 2007. This document includes a list of 54 UK sites around which HSE has identified societal risk issues. There are 15 gas holder sites in this list, which includes the Bethnal Green site. CD212 covers a range of issues, including the consideration of the wider context. For example, there is a proposal that HSE may have some input during

the preparation of development plans for areas affected by such sites, in order to ensure that any future development is appropriate to the area and to the risks from the major hazard site.

It has been shown in this quantified assessment that the societal risk associated with the Bethnal Green gas holder site is not at present exceptionally high for a typical COMAH site. It has also been shown that the societal risk would not increase to an intolerable level if the proposed development were to be allowed. The primary objection of HSE is therefore likely to be the precedent which this may set in allowing a significant increase in societal risk - for example, the 32% increase from the proposed development would imply that only 3 such developments would be required before the societal risk was almost doubled.

It is therefore clear that, when considering potential individual developments close to major hazard sites, both individual and societal risk need to be considered. In some cases, robust calculations of these risks may show them to be below some 'broadly acceptable' level, as defined by HSE. Conversely, they may be shown to be intolerable in all circumstances. Between these levels (as is the case for the proposed development), the acceptability of the risks, either individual or societal, can only be judged by balancing the calculated risks with the socioeconomic benefits (both for the hazardous installation and for developments in the vicinity). Ultimately, although HSE provides advice, it is for the Planning Authority to make such judgements, taking account of factors such as:

- nature and scale of benefits to the local / wider community
- provision of jobs / employment
- contribution to GDP and local taxes
- consistency with local development plans
- views of the public
- etc

and balancing these benefits against the risks in terms of:

- number and likelihood of people affected (fatalities and injuries)
- nature of harm

For example, a gas holder site such as Bethnal Green could be regarded as providing a significant regional benefit in terms of providing a fuel supply to a large community, and hence a planning authority might consider that a moderate level of societal risk associated with the installation was acceptable (provided it could be demonstrated to be ALARP), whilst for a smaller industrial activity with no significant socioeconomic benefits, a planning authority might consider the same level of societal risk to be unacceptable (even if it was also ALARP).

Similarly, where a development is proposed near an existing major hazard site, it is also the responsibility of the planning authority to make such judgements, taking account of the factors noted above. If there was such a pressing need for residential development in the area, and no other land was available, then the Planning Authority may be inclined to grant Planning Permission. In the present situation, however, in view of the relatively high risks, it may be considered to be more appropriate only to allow development of a less sensitive nature, such as light industrial or commercial. It is also noted that, although HSE may advise against this type of residential development anywhere within the Inner Zone, this detailed QRA has shown that the risks drop off quite rapidly away from the Bethnal Green gas holder site, implying that such a development could be more readily justified on other nearby sites, e.g. on the east side of the Oval.

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It is therefore concluded that:

- 1.) The individual risk, at around 12cpm, is not intolerable, but is above the level at which HSE would advise against for this type of development.
- 2.) The current societal risk associated with the gas holder site is not particularly high for a Top Tier COMAH site.
- 3.) The addition of the extra population will increase societal risk by around 32%, but it will still remain well within HSE guidelines.
- 4.) Whilst it is possible that a case could be made for accepting this additional risk, HSE is likely to be concerned at the potential for cumulative societal risk effects if adjacent properties were to be developed in a similar way.

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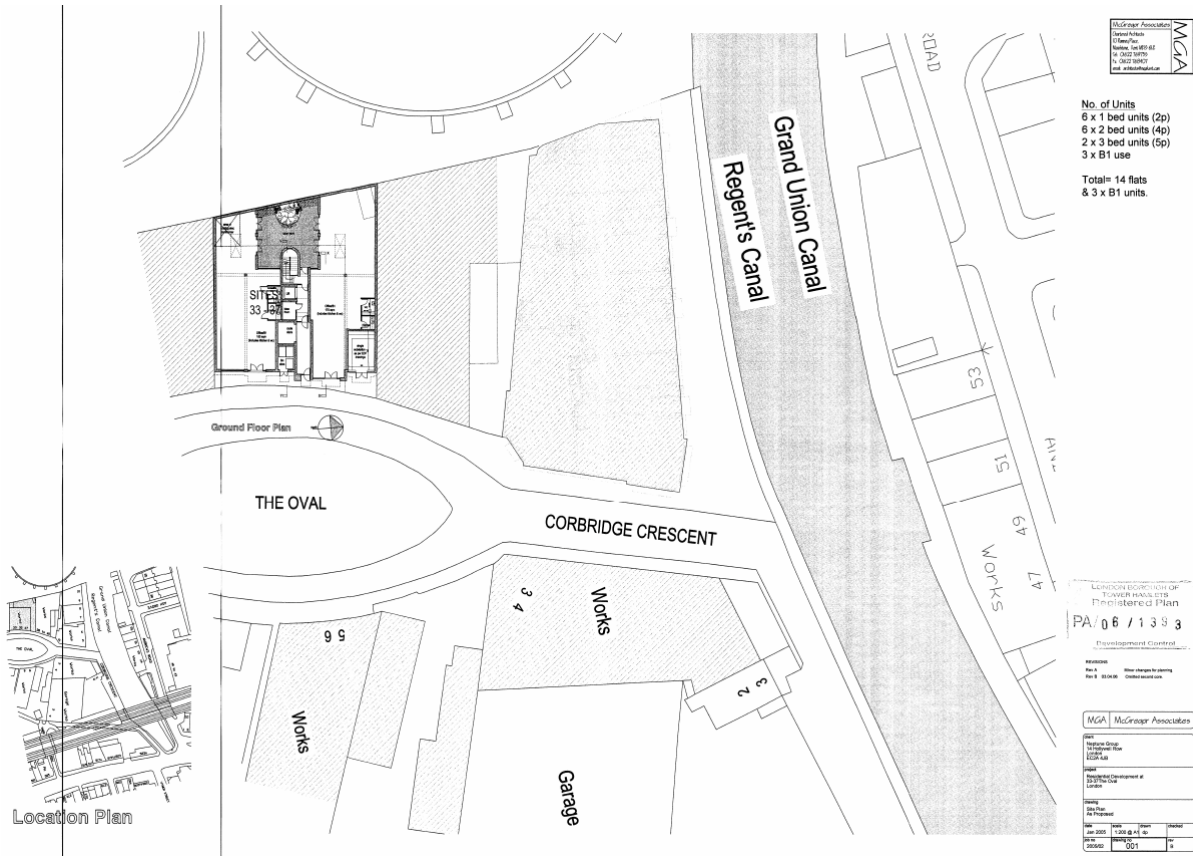
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**8. ABBREVIATIONS AND ACRONYMS**

ALARP	As Low As Reasonably Practicable
CD	Consultation Distance
CIRRUS	Suite of consequence modelling codes developed by BP
COMAH	Control of Major Accident Hazards
cpm	Chances per million (years)
DTL	Dangerous Toxic Load
EV	Expectation Value
FBR	Fireball Radius
FN	Cumulative frequency of N or more fatalities
HGSYSTEM	Suite of gas dispersion modelling codes
HSE	Health and Safety Executive
LPA	Local Planning Authority
LPG	Liquified Petroleum Gas
LSIR	Location Specific Individual Risk
PADHI	Planning Advice for Developments near Hazardous Installations
PLL	Potential Loss of Life
QRA	Quantified Risk Assessment
R2P2	Reducing Risks, Protecting People (HSE publication, 2001)
SRI	Scaled Risk Integral
tdu	thermal dose units $(kW/m^2)^{4/3}$ .seconds
VCE	Vapour Cloud Explosion

**Figure 2-1 Plan of the proposed development at 33-37 The Oval**



**Figure 2-2 Photo showing development at 33 - 37 The Oval and Gas Holder no. 5**



**Figure 2-3 HSE Consultation Zones**



Site Plan: 33 - 37 The Oval  
Health and Safety Executive Consultation Zones






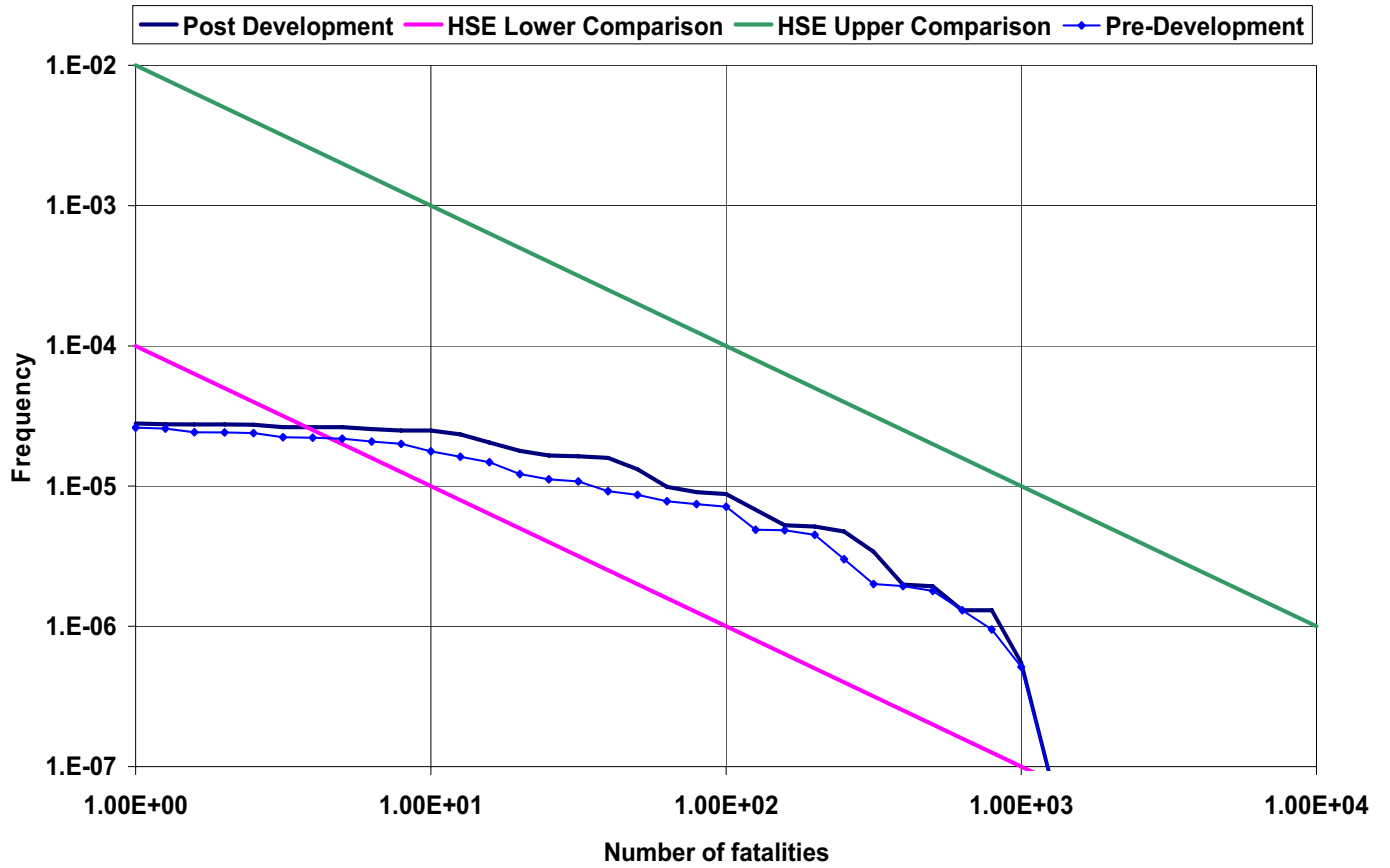
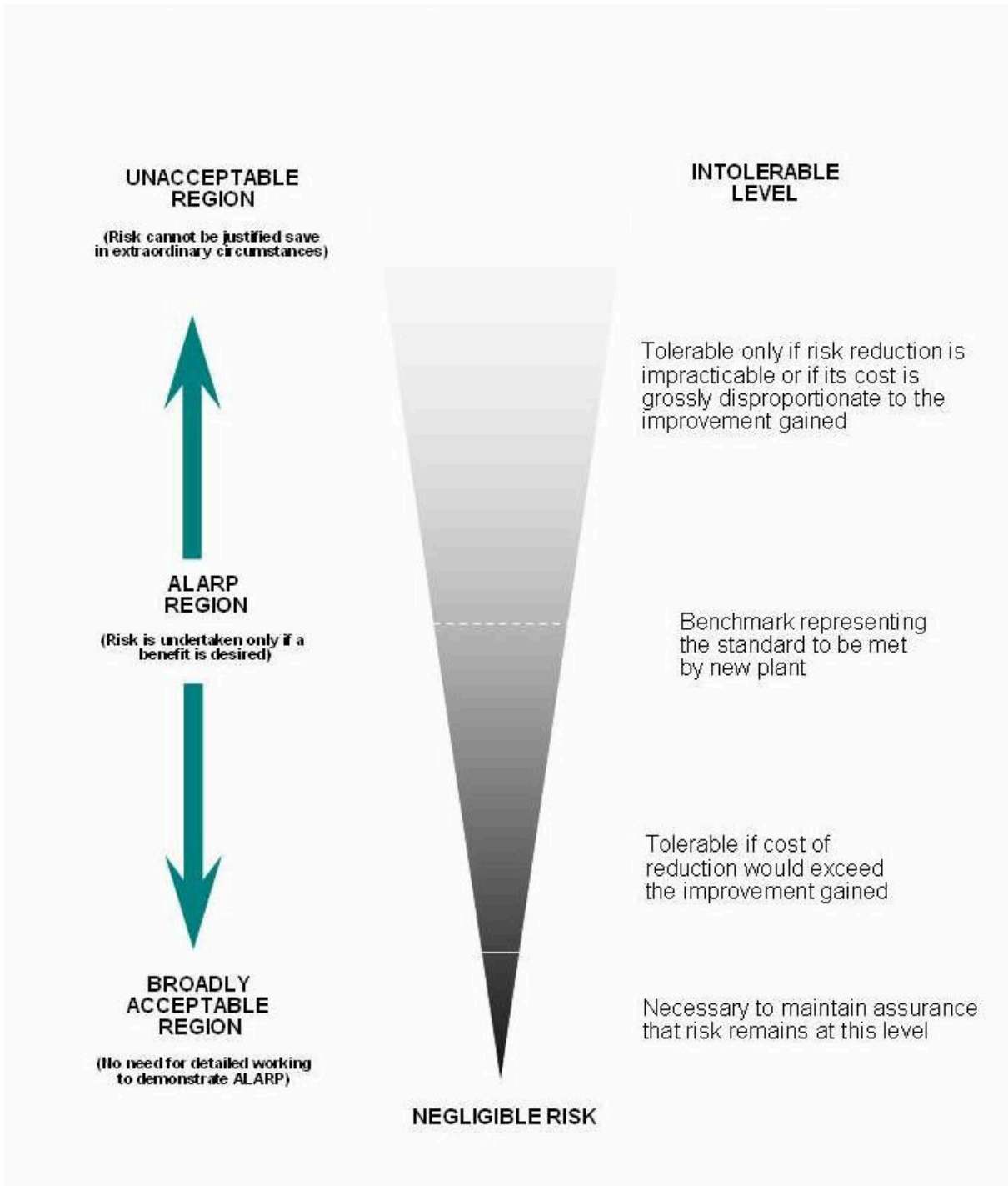
-  Site at: 33-37 The Oval
-  Bethnal Green Gas Holder Station
- HSE Consultation Zones
-  Inner
-  Middle
-  Outer



Figure 4.1 FN Curve



**Figure 5.1 HSE Framework for tolerability of risk**



**APPENDIX A**

*Population Data*

**A1 INTRODUCTION**

This appendix includes data for the following 3 categories of population:

**1 Residential**

This information is drawn from the 2001 census output, and is given in Table A.1 against the output areas identified in Figure A1. It is estimated that there is a total residential population of around 12,600 within 500m of the gas holder site.

**2 Employee**

This information is provided against regions which cover several census output areas. The key, to be compared with Figure A1, is given in Table A2, and the employee numbers are given in Table A3.

**3 Sensitive populations**

Schools and other facilities at which sensitive populations may be present are shown in Figure A2. The approximate population data for the schools identified within the zones are:

Mowlem Primary School	260
Oaklands Secondary School	650
Raines Annexe Secondary School	550
Beatrice Tate Secondary School	90
St Johns Primary School	260
Lawdale Primary School	335
London Fields Primary School	490
Sebright primary School	460

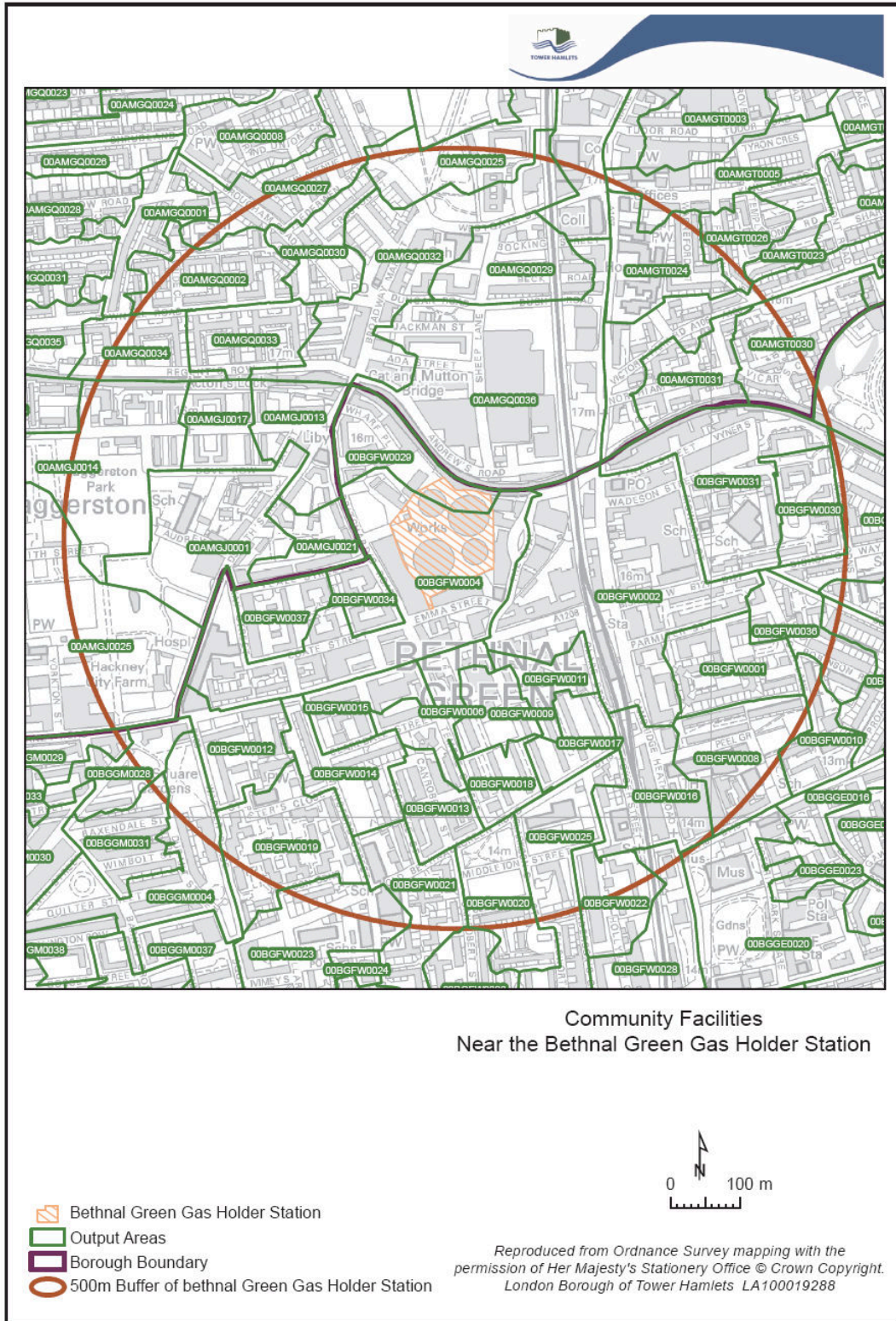
St Joseph's Hospice has an approximate population of 100-120 persons.

The numbers that attend the adult day centres identified appear to be quite low.

*Table A1 Residential Population Data*

Borough	Output Area Code	Population within 500m	Total Population	Area within 500m buffer (m2)	Total area (m2)	Fraction within 500m	Weighted population based on area fraction
Tower Hamlets	00BGFW0001	341	341	20037.48	20037.48	1.00	341
Tower Hamlets	00BGFW0002	253	253	82016.10	82016.10	1.00	253
Tower Hamlets	00BGFW0004	252	252	73362.21	73362.26	1.00	252
Tower Hamlets	00BGFW0005	15	245	1076.96	18058.40	0.06	15
Tower Hamlets	00BGFW0006	416	416	14003.02	14003.02	1.00	416
Tower Hamlets	00BGFW0008	196	238	20697.70	25112.64	0.82	196
Tower Hamlets	00BGFW0009	307	307	11116.43	11116.43	1.00	307
Tower Hamlets	00BGFW0010	40	275	1709.77	11882.46	0.14	40
Tower Hamlets	00BGFW0011	303	303	9595.21	9595.21	1.00	303
Tower Hamlets	00BGFW0012	418	418	17555.69	17555.69	1.00	418
Tower Hamlets	00BGFW0013	232	232	12926.50	12926.50	1.00	232
Tower Hamlets	00BGFW0014	414	414	17591.35	17591.35	1.00	414
Tower Hamlets	00BGFW0015	204	204	12799.39	12799.39	1.00	204
Tower Hamlets	00BGFW0016	208	209	23191.21	23267.01	1.00	208
Tower Hamlets	00BGFW0017	330	330	11122.02	11122.02	1.00	330
Tower Hamlets	00BGFW0018	338	338	9994.88	9994.88	1.00	338
Tower Hamlets	00BGFW0019	450	533	24330.55	28788.56	0.85	450
Tower Hamlets	00BGFW0020	194	284	13359.03	19537.74	0.68	194
Tower Hamlets	00BGFW0021	214	320	15074.07	22554.94	0.67	214
Tower Hamlets	00BGFW0022	177	410	6346.00	14669.47	0.43	177
Tower Hamlets	00BGFW0023	64	335	6674.34	35024.60	0.19	64
Tower Hamlets	00BGFW0025	191	276	18822.71	27186.14	0.69	191
Tower Hamlets	00BGFW0026	1	387	28.06	11903.22	0.00	1
Tower Hamlets	00BGFW0028	17	266	1922.80	29794.52	0.06	17
Tower Hamlets	00BGFW0029	445	445	18507.56	18507.58	1.00	445
Tower Hamlets	00BGFW0030	453	453	14194.16	14208.22	1.00	453
Tower Hamlets	00BGFW0031	325	325	39812.43	39812.43	1.00	325
Tower Hamlets	00BGFW0032	46	294	4469.37	28261.16	0.16	46
Tower Hamlets	00BGFW0034	197	197	7785.77	7785.77	1.00	197
Tower Hamlets	00BGFW0035	5	319	772.10	48777.36	0.02	5
Tower Hamlets	00BGFW0036	208	310	10607.66	15831.83	0.67	208
Tower Hamlets	00BGFW0037	462	462	12527.16	12527.16	1.00	462
Tower Hamlets	00BGGJ0002	1	347	649.56	443184.41	0.00	1
Tower Hamlets	00BGGJ0020	0	249	93.46	47586.03	0.00	0
Tower Hamlets	00BGGM0004	66	300	7674.85	34794.37	0.22	66
Tower Hamlets	00BGGM0028	100	276	4942.32	13701.20	0.36	100
Tower Hamlets	00BGGM0029	7	277	454.63	17076.71	0.03	7
Tower Hamlets	00BGGM0031	9	240	560.93	14723.72	0.04	9
Hackney	00AMGJ0001	196	196	37985.69	37985.74	1.00	196
Hackney	00AMGJ0013	328	328	18083.04	18083.04	1.00	328
Hackney	00AMGJ0014	223	295	34406.25	45443.76	0.76	223
Hackney	00AMGJ0017	310	310	13549.28	13549.28	1.00	310
Hackney	00AMGJ0021	324	324	11778.94	11778.95	1.00	324
Hackney	00AMGJ0025	87	233	30779.62	82040.89	0.38	87
Hackney	00AMGQ0002	221	272	17301.82	21330.96	0.81	221
Hackney	00AMGQ0021	18	264	7204.13	103243.07	0.07	18
Hackney	00AMGQ0025	105	235	13407.66	29922.58	0.45	105
Hackney	00AMGQ0027	98	376	9283.32	35572.78	0.26	98
Hackney	00AMGQ0029	323	323	21543.58	21543.58	1.00	323
Hackney	00AMGQ0030	265	265	14864.65	14864.65	1.00	265
Hackney	00AMGQ0032	222	227	48264.05	49264.94	0.98	222
Hackney	00AMGQ0033	423	423	16906.44	16906.44	1.00	423
Hackney	00AMGQ0034	258	360	11136.81	15557.36	0.72	258
Hackney	00AMGQ0036	279	279	77743.04	77743.06	1.00	279
Hackney	00AMGT0005	28	333	2012.30	23914.24	0.08	28
Hackney	00AMGT0009	222	398	18548.33	33208.00	0.56	222
Hackney	00AMGT0024	241	250	20212.68	20955.43	0.96	241
Hackney	00AMGT0026	53	326	1793.90	10948.41	0.16	53
Hackney	00AMGT0030	164	306	13217.58	24705.32	0.54	164
Hackney	00AMGT0031	282	282	16134.80	16134.80	1.00	282

Figure A1 Census Output Areas





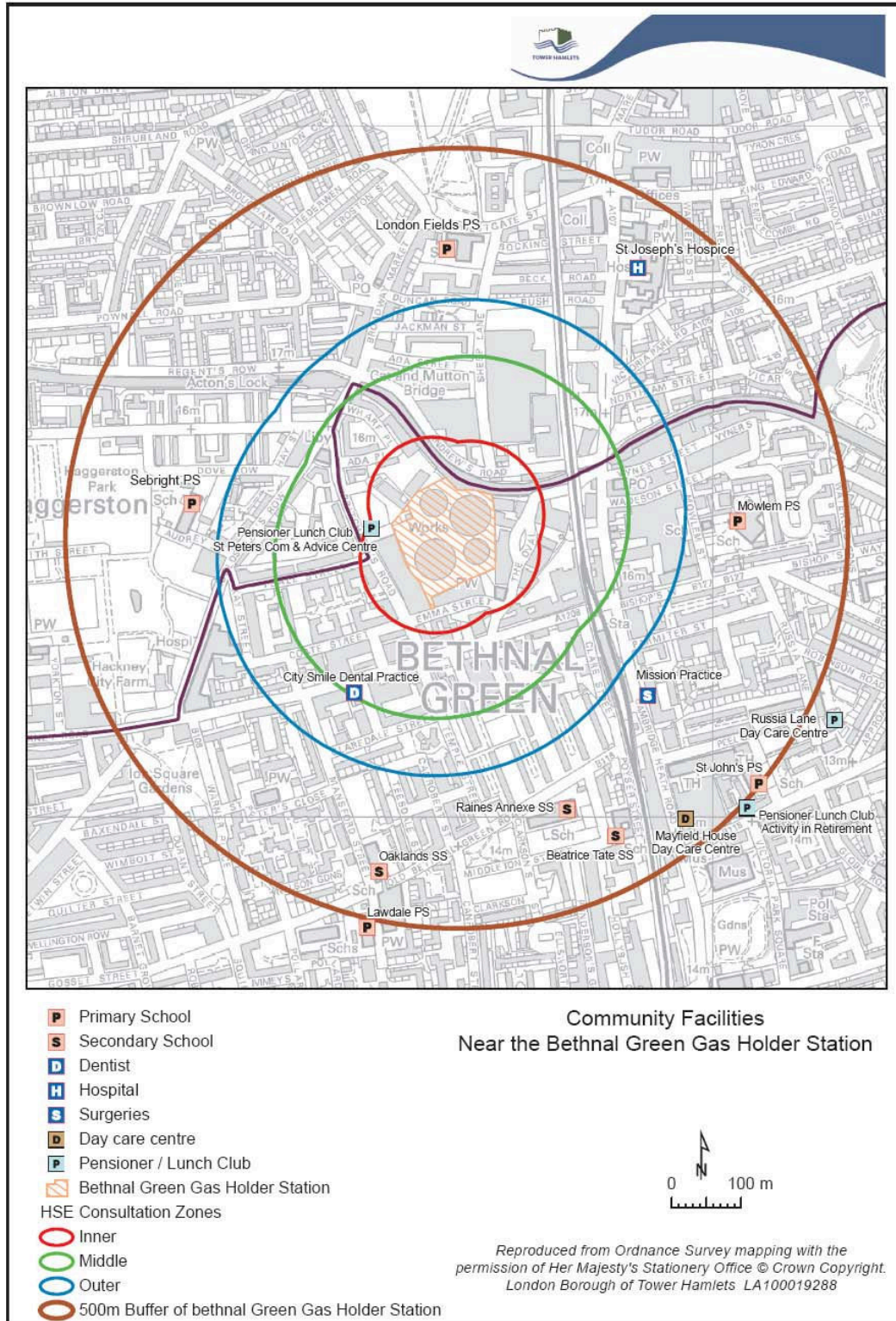
**Table A2 Key to Employee Data Areas**

Output Area Code	Lower Super Output Area Code	Middle Super Output Area Code	Middle Super Output Area Name	Ward Name	Local Authority
00AMGQ0015	E01001818	E02000367	Hackney 023	Queensbridge	Hackney
00AMGQ0021	E01001818	E02000367	Hackney 023	Queensbridge	Hackney
00AMGQ0025	E01001818	E02000367	Hackney 023	Queensbridge	Hackney
00AMGQ0029	E01001818	E02000367	Hackney 023	Queensbridge	Hackney
00AMGQ0032	E01001818	E02000367	Hackney 023	Queensbridge	Hackney
00AMGQ0036	E01001818	E02000367	Hackney 023	Queensbridge	Hackney
00AMGT0009	E01001837	E02000367	Hackney 023	Victoria	Hackney
00AMGT0024	E01001837	E02000367	Hackney 023	Victoria	Hackney
00AMGT0025	E01001837	E02000367	Hackney 023	Victoria	Hackney
00AMGT0030	E01001837	E02000367	Hackney 023	Victoria	Hackney
00AMGT0031	E01001837	E02000367	Hackney 023	Victoria	Hackney
00AMGT0005	E01001842	E02000367	Hackney 023	Victoria	Hackney
00AMGT0014	E01001842	E02000367	Hackney 023	Victoria	Hackney
00AMGT0020	E01001842	E02000367	Hackney 023	Victoria	Hackney
00AMGT0023	E01001842	E02000367	Hackney 023	Victoria	Hackney
00AMGT0026	E01001842	E02000367	Hackney 023	Victoria	Hackney
00AMGJ0018	E01001774	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0023	E01001774	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0024	E01001774	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0025	E01001774	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0033	E01001774	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0001	E01001775	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0013	E01001775	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0014	E01001775	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0017	E01001775	E02000368	Hackney 024	Haggerston	Hackney
00AMGJ0021	E01001775	E02000368	Hackney 024	Haggerston	Hackney
00AMGQ0008	E01001815	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0016	E01001815	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0022	E01001815	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0024	E01001815	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0027	E01001815	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0002	E01001821	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0030	E01001821	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0033	E01001821	E02000368	Hackney 024	Queensbridge	Hackney
00AMGQ0034	E01001821	E02000368	Hackney 024	Queensbridge	Hackney
00BGFW0002	E01004197	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0005	E01004197	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0030	E01004197	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0031	E01004197	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0036	E01004197	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0001	E01004198	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0008	E01004198	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0010	E01004198	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0016	E01004198	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0022	E01004198	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0009	E01004199	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0011	E01004199	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0017	E01004199	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0018	E01004199	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0025	E01004199	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0003	E01004201	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0007	E01004201	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0032	E01004201	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0033	E01004201	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGFW0035	E01004201	E02000865	Tower Hamlets 002	Bethnal Green North	Tower Hamlets
00BGA0002	E01004234	E02000866	Tower Hamlets 003	Bow West	Tower Hamlets
00BGA0003	E01004234	E02000866	Tower Hamlets 003	Bow West	Tower Hamlets
00BGA0019	E01004234	E02000866	Tower Hamlets 003	Bow West	Tower Hamlets
00BGA0020	E01004234	E02000866	Tower Hamlets 003	Bow West	Tower Hamlets
00BGA0021	E01004234	E02000866	Tower Hamlets 003	Bow West	Tower Hamlets
00BGA0024	E01004234	E02000866	Tower Hamlets 003	Bow West	Tower Hamlets
00BGFW0006	E01004200	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0013	E01004200	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0014	E01004200	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0015	E01004200	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0004	E01004202	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0029	E01004202	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0034	E01004202	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0037	E01004202	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0020	E01004203	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0021	E01004203	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets
00BGFW0026	E01004203	E02000868	Tower Hamlets 005	Bethnal Green North	Tower Hamlets

**Table A3 Employee Data**

<b>LSOA_CODE</b>	<b>500m Radius Area</b>	<b>SOA_Area</b>	<b>Proportional_Area</b>	<b>TOTAL</b>	<b>Emp_Ratio</b>
E01001774	30779.65	179566.03	0.17	843	143.31
E01001775	115803.09	126840.61	0.91	108	98.28
E01001815	9283.19	108964.77	0.09	57	5.13
E01001818	168162.46	381334.22	0.44	2176	957.44
E01001821	60209.99	68659.75	0.88	58	51.04
E01001837	68114.08	111400.39	0.61	395	240.95
E01001842	3806.04	64684.66	0.06	67	4.02
E01004197	147707.28	169927.33	0.87	1074	934.38
E01004198	71981.77	94968.93	0.76	557	423.32
E01004199	60650.32	69013.60	0.88	68	59.84
E01004200	57320.64	57320.64	1.00	159	159.00
E01004201	5241.46	129814.16	0.04	644	25.76
E01004202	112182.91	112182.91	1.00	527	527.00
E01004203	30384.15	105158.20	0.29	954	276.66
E01004204	48560.82	84457.98	0.57	421	239.97
E01004234	649.69	573205.32	0.00	250	0.00
E01004259	93.47	133233.23	0.00	1792	0.00
E01004314	8235.71	83243.71	0.10	260	26.00
E01004318	5397.00	58667.01	0.09	229	20.61

**Figure A2 Locations of Sensitive Populations**



**APPENDIX B**

*Excerpt from PADHI Sensitivity Table*

<b>Development type</b>	<b>Examples</b>	<b>Development detail and size</b>	<b>Justification</b>
<b>DT2.1 Housing</b>	Houses, flats, retirement flats/ bungalows, residential caravans, mobile homes.	Developments up to and including 30 dwelling units <b>and</b> at a density of no more than 40 per hectare –  <b>Level 2</b>	Development where people live or are temporarily resident. It may be difficult to organise people in the event of an emergency.
<b>EXCLUSIONS</b>			
Infill, backland development.	<b>DT2.1 x1</b> Developments of 1 or 2 dwelling units - <b>Level 1</b>	Minimal increase in numbers at risk.	
Larger housing developments.	<b>DT2.1 x2</b> Larger developments for more than 30 dwelling units – <b>Level 3</b>	Substantial increase in numbers at risk.	
	<b>DT2.1 x3</b> Any developments (for more than 2 dwelling units) at a density of more than 40 dwelling units per hectare - <b>Level 3</b>	High-density developments.	
<b>EXCLUSIONS</b>			
<b>DT2.2 - Hotel/Hostel/Holiday Accommodation</b>	Hotels, motels, guest houses, hostels, youth hostels, holiday camps, holiday homes, halls of residence, dormitories, accommodation centres, holiday caravan sites, camping sites.	Accommodation up to 100 beds or 33 caravan / tent pitches – <b>Level 2</b>	Development where people are temporarily resident. It may be difficult to organise people in the event of an emergency.
<b>EXCLUSIONS</b>			
Smaller - guest houses, hostels, youth hostels, holiday homes, halls of residence, dormitories, holiday caravan sites, camping sites.	<b>DT2.2 x1</b> Accommodation of less than 10 beds or 3 caravan / tent pitches - <b>Level 1</b>	Minimal increase in numbers at risk.	
Larger – hotels, motels, hostels, youth hostels, holiday camps, holiday homes, halls of residence, dormitories, holiday caravan sites,	<b>DT2.2 x2</b> Accommodation of more than 100 beds or 33 caravan / tent pitches–	Substantial increase in numbers at risk.	

camping sites.		<b>Level 3</b>	
<b>DT2.3 Transport Links</b> -	Motorway, dual carriageway.	Major transport links in their own right; i.e. not as an integral part of other developments – <b>Level 2</b>	Prime purpose is as a transport link. Potentially large numbers exposed to risk, but exposure of an individual is only for a short period.
<b>EXCLUSIONS</b>			
Estate roads, access roads.	<b>DT2.3 x1</b> Single carriageway roads – <b>Level 1</b>	Minimal numbers present and mostly a small period of time exposed to risk. Associated with other development.	

**APPENDIX C**

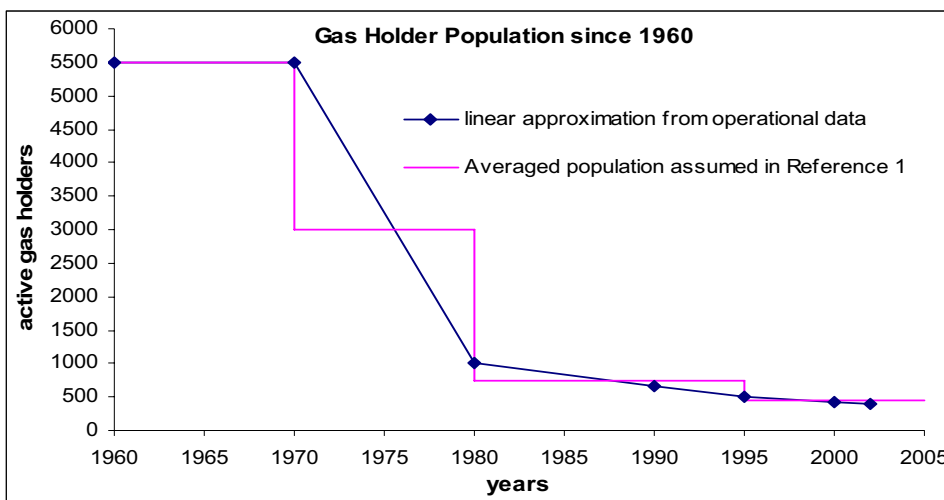
*Assessment of Accident Statistics for Water Sealed Gas Holders*

**C1 DATA AND ASSUMPTIONS**

The following data were available for the study:

- 1) Information on major accidents occurring between 1912 and 1930 and causing total decoupling of seals, with or without gas ignition and total collapse of the gas holder (Ref. 1).
- 2) Database of accidents involving gas leaks, with or without ignition, between 1970 and 2000 (Appendix 1 of Ref. 1). These are derived from Transco records. It is important to note that some information related to the above holder accidents has not been disclosed by HSE. In addition, because stations are generally un-staffed, Reference 1 presumes that reliance is made by Transco on reports from the public and analyses of post-accident damage for an estimate of mass of release and causes. Furthermore, it is noted that some inconsistencies in the dataset were observed; these are described in Section C2.
- 3) Information on the gas holder population and industry development from 1910 (Ref. 1).

In order to use the available information for the derivation of statistical accident frequencies, the following assumptions and refinements on the above data were made. Figures for the number of gas holders active in the United Kingdom over the years, from 1970 were derived from 3). In particular, Reference 1 reports that until the end of the 60s the estimate of water-sealed gasholders in operation in the UK was between 5000 and 6000; hence a constant population of 5500 gasholders was assumed for those years. Information on the subsequent decreases in the number of gas holders in use is given in Reference 1. It is reported that between 1970 and 1980 the gasholder population diminished from 5500 to 1000, between 1980 and 1995 from 1000 to 500 and between 1995 and 2002 from 500 to 400.



**Figure C1 Reduction of gas holder population over time since 1960**

From these figures the approximate numbers for the population of gas holders active each year between 1910 and 2002 could be obtained, assuming linear reductions of active gas

holder numbers, as shown in Figure C1. The diagram depicts the linear approximations derived for the present analysis and the average values used in Reference 1 for comparison.

**C2 EVENT FREQUENCY ANALYSIS**

*C2.1 Analysis of Large Historical Events*

Only 6 major accidents have been reported where decoupling and / or collapse of gas holders have occurred. Three of these, i.e. 50% of the incidents, involved the ignition of the gas which had escaped and two resulted in a total collapse of the holders; all of them happened between 1910 and 1930. Reference 1 derives frequencies for major accidents by dividing the number of accidents by the total number of gas holder operational years ( $3.76 \times 10^5$ ), treating these as a single dataset. In this analysis, data have been treated statistically slightly differently and the specific holder population in operation during the decade when the accident(s) occurred was applied to derive a ten-year frequency and the frequencies obtained during all decades (non-null only for the first two decades) were averaged over the entire period covered. The results are reported in Table C1.

Years		Events			Frequency (events / holder / yr)		
Period	Holder years	Total collapse	De-coupled seals with ignition	De-coupled seals all	Total collapse	De-coupled seals with ignition	De-coupled seals all
1910 - 1920	55000	1	1	3	$1.82 \times 10^{-5}$	$1.82 \times 10^{-5}$	$5.45 \times 10^{-5}$
1920 - 1930	55000	1	2	3	$1.82 \times 10^{-5}$	$3.64 \times 10^{-5}$	$5.45 \times 10^{-5}$
1930 - 1940	55000	0	0	0	0	0	0
1940 - 1950	55000	0	0	0	0	0	0
1950 - 1960	55000	0	0	0	0	0	0
1960 - 1970	55000	0	0	0	0	0	0
1970 - 1980	32500	0	0	0	0	0	0
1980 - 1990	8330	0	0	0	0	0	0
1990 - 2000	5480	0	0	0	0	0	0
2000 - 2005	2030	0	0	0	0	0	0
<b>Average</b>					$3.83 \times 10^{-6}$	$5.74 \times 10^{-6}$	$1.15 \times 10^{-5}$

**Table C1 Frequencies of accidents involving total collapse and seal decouplement, averaged over periods of 10 years.**

Table C2 compares the average probabilities obtained as described above with those reported in Reference 1. It can be seen that the estimates calculated through this study are to be slightly lower than those reported in Reference 1.

Accidents involving total collapse and seal de-couplement	Frequency (cpm / holder / year)	
	Calculated	From Reference 1
All	11.5	~15
Decoupled seal (or worse) with ignition	5.7	~10
Total collapse with ignition	3.8	~5

**Table C2 Comparison between calculated frequencies of accidents involving total collapse and seal de-couplement and corresponding figures obtained in Reference1.**

**C2.2 ALTERNATIVE ESTIMATION**

Because the only major accidents recorded in the industry have occurred several decades ago and no other accidents have been reported since, Reference 2 derives an estimate of expected frequency, excluding the past events, through the application of the Poisson distribution model.

If:

x is the level of confidence of the estimate in percentage

n is the period (in holder years) without accidents

then the expected frequency  $F_x$  can be calculated by applying the following formula:

$$F_x = \frac{-\ln(1 - x/100)}{n}$$

Taking a 90% confidence interval and considering an approximate number of gasholder years of  $1 \times 10^5$  since nationalisation, Reference 2 estimates a frequency  $F_{90}$  of  $2.1 \times 10^{-5}$  events per holder per year. Furthermore, a 50% ignition probability for major accidents is assumed, which leads to a prediction of about  $10 \times 10^{-6}$  ignited decoupled seal accidents / holder / year with a 90% confidence. Of these, 10% are assumed to be as a result of total collapse, with a resulting estimated frequency of  $1 \times 10^{-6}$ .

However, the total number of holder years derived in Reference 1 over the accident free period (since 1930) and since nationalisation (1950) is respectively  $2.5 \times 10^5$  and  $1.5 \times 10^5$ . If these values are used in the application of the Poisson formula, for a 90% confidence interval, the following estimates are obtained:

Since 1930  $F_{90} = \frac{-\ln(1 - 90/100)}{2.5 \times 10^5} = 9.2 \times 10^{-6}$  events/holder/year

Since 1950  $F_{90} = \frac{-\ln(1 - 90/100)}{1.5 \times 10^5} = 1.5 \times 10^{-5}$  events/holder/year

The table below compares these figures to those obtained in Reference 2 together with frequencies for ignited decoupled seal accidents and total collapse accidents derived by applying the same factors assumed in Reference 2.



Accidents involving total collapse and decoupled seal (or worse) with ignition	Frequency (cpm / holder / year)		
	From Reference 1	Calculated since 1950	Calculated since 1930
All	21	15	~9
Decoupled seal (or worse) with ignition	10	~7.5	~4.5
Total collapse with ignition	~1	~0.75	~0.45

**Table C3 Comparison between predicted frequencies for accidents involving total collapse and decoupled seal (or worse) assuming a 50% probability of ignition.**

**C3 ANALYSIS OF RECENT INCIDENT DATA**

**C3.1 BACKGROUND**

A review has been carried out for gas holder incidents occurring between 1970 and 2000, details of which are provided in Appendix 1 of Reference 1. One hundred and twenty nine events are reported to have occurred during the period and involved gas leaks of various magnitudes from water-sealed gas holders. Because the data reported were obtained only through partial disclosure of information and through public report and post-accident analysis, they often lack details in terms of quantities released and accident causes. In particular, for approximately 55% of the cases, the gas leak has not been quantified.

In reviewing the dataset, it was also noted that for two pairs of entries reported separately in the dataset the details given appear remarkably similar, suggesting that each pair actually refers to the same event. For the purpose of this review, each pair will be considered as representative of a single incident. (It is noted that the events in the dataset of Reference 1 are reported in chronological order, with the exception of the two spurious duplicate entries, which, therefore, appear to be recorded erroneously). The total number of events used in the present analysis from Reference 1 is therefore 127. Although ‘major releases’ have been recorded in several instances, it is not suggested that any of these accidents have produced a full seal de-couplement or holder collapse.

Figure C2 shows the event distribution between 1970 and 2000. Over the period covered, with the exception of isolated peaks, the accident trend shows a fairly random and reasonably uniform spread with an average of 4-5 accidents per year. However, if the number of events per year is normalised with respect to the actual holder number in operation during the year, the resulting frequency appears to be increasing steadily (with the sporadic superimposed peaks), as shown in Figure C3. This might be attributable to the fact that, whilst the population of holders has decreased significantly over the last 30 years, it is likely that the holders being decommissioned are actually those that in recent years have not been in operation (full utilisation). Whereas before decommissioning these holders might have been considered as part of the total populations, they would not have been equally susceptible to accidents (hence the apparent lower accident probability). The resulting total average probability is  $5.4 \times 10^{-3}$ . This is calculated as the average of the annual frequency obtained by dividing the number of events per year by the gas holder population in the same year and averaging the annual frequencies obtained over the three decades 1970 -2000. If the gasholder operational years were treated as a single dataset, the total frequency would

be obtained by dividing the number of events (127) by the integrated gas holder population over the 30 years of operation considered (48950), giving rise to more optimistic predictions ( $2.6 \times 10^{-3}$ ).

Of the accidents recorded, 13% are reported in Appendix 1 of Reference 1 to have caused releases greater than 30te (major releases), all attributable to seal failure, except one case of overfilling. The resulting yearly probability for major releases is, therefore,  $5.4 \times 10^{-3} \times 0.13 = 7.1 \times 10^{-4}$  per holder per year.

It is interesting to note that in only four instances did the accidental gas leaks ignite, and none of these cases were explicitly related to major releases (Ref.1). In three cases ignition was attributed to faulty electrical antifreeze equipment and in one instance to spark generated from a hand grinder. None of the events occurred after 1985. Ignited leaks therefore represent approximately only 3% of the totality of accidents which occurred in the period under review, with a resulting probability of  $5.4 \times 10^{-3} \times 0.03 \approx 1.7 \times 10^{-4}$ .

**C3.2 Cause Analysis**

A review of potential causes was undertaken for the set of events reported in Appendix 1 of Reference 1 for the period 1970 – 2000. Gas holder accidents were grouped under the categories indicated in Table C4, and a pie chart of the causal distribution given above is given in Figure C4.

<b>Cause</b>	<b>Number of events</b>	<b>Percentage</b>
Corrosion in water seal	24	19%
High winds	9	7%
Snow load	3	2%
Overfilling	13	10%
Low temperatures	1	1%
Evaporation	3	2%
Equipment / Mechanical Failure	34	27%
Human error	6	5%
Ignited seal	4	3%
N/R / other / unknown	30	24%

**Table C4 Causal distribution of gas holder accidents for the period 1970 – 2000.**

For a large percentage of accidents (24%), the cause was not reported or was reported as unknown. For the remaining cases, the two predominant accident roots are mechanical / equipment failures (38%), with a distinct high contribution of water seals failing due to corrosion (19%) and a substantial single contribution from failure of the antifreeze system. It is interesting to note that, out of the four instances resulting in fire, in three cases ignition was attributed to faulty electrical antifreeze equipment. The next most significant source of releases is overfilling (due to mechanical problems or human error).

Factors such as low temperatures, snow load and evaporation, identified in Reference 1 as potential causes for major accidents (de-couplement and holder collapse), have been recognised as the possible origin of a small number of releases (1 instance due to low temperatures, 3 due to snow load and 3 due to evaporation over 30 years). However, in none of these events were large releases reported and the overall contribution, compared to the total number of accidents, is of little significance. On the other hand, in Reference 1, a greater number of events (9) are attributed to (or were recorded as occurring in the presence of) high winds, also recognised as a potential cause for major accidents.

The following initiators are of particular interest for gas holder safety assessments and hence have been considered separately:

- Split crown
- Overfilling
- Seal failure

Table C5 below summarises statistical data and frequencies related to the three initiators. Frequencies have been calculated as fractions of the total average frequency derived above ( $5.4 \times 10^{-3}$ ).

Initiator	Number of events	Percentage over total number of events	Frequency
Split crown	7	5.5%	$3.0 \times 10^{-4}$
Overfilling	13	10.2%	$5.6 \times 10^{-4}$
Seal Failure	33	25.9%	$1.4 \times 10^{-3}$

**Table C5 Statistical data and frequencies related to accident caused by: split crown, overfilling, and seal failure.**

Whereas release quantities were not specified for any of the split crown events, a number of overfilling and seal failure accidents were reported to have resulted in leaks of different severity, including major releases.

***C3.3 Release Size Assessment***

A classification of accidental releases from gas holders reported in Reference 1 for the period 1970 – 2000 was carried out on the basis of the mass of gas. When considering the quantification of releases, there is an even greater percentage of cases (55%) for which the amounts of gas released are not specified. If the same severity distribution from quantified releases (45% of events) is applied to the 55% un-quantified events, reasonably conservative release percentages can be estimated. Actual and projected figures are summarised in Table C6 below, and the release distributions given in the table are represented in Figures C5 and C6 through pie charts.

Quantity of gas released [te]	Number of actual events	Percentage	
		Reported	Projected
0 – 10	30	24%	53%
10 – 20	8	6%	14%
20 – 30	3	2%	5%
30 – 40	4	3%	7%
40 – 50	11	9%	19%
> 50	1	1%	2%
NR	70	55%	

**Table C6 Release distribution of gas holder accidents for the period 1970 – 2000.**

The majority of recorded releases (24% reported, 53% projected) were relatively small. A small number of reported accidents (11) gave rise to gas leaks between 40te and 50te. These were all attributable to mechanical / equipment failure, including corrosion in the water seal. In total, 16 ‘major releases’ which gave rise to discharges greater than 30te are reported in Reference 1, i.e. 13% of the total number of accidents considered. However, if same the severity distribution from quantified releases is also applied to un-quantified events, a considerably greater contribution of major release would be obtained, corresponding to an estimated percentage of 28%. It is evident how crucial would be the knowledge of the effective distribution of events for which information is undisclosed or partial.

**C4 DISCUSSION**

The causal distribution of accidental leaks recorded for the period 1970 – 2000 was derived, as reported in Section C.3.2. The analysis showed that the predominant causes for gas holder accidents are mechanical / equipment failures including corrosion of seals, followed by overfilling. Extreme weather conditions (snow loading, extreme temperatures and high winds) have been identified in Reference 1 as potential causes of de-couplement or total collapse of gas holders. However the recorded experience shows that only in very sporadic instances did snow loading and extreme temperatures result in minor releases (3 and 1 incidents respectively). A greater number of incidences (9) were attributed to high winds.

It is interesting to note that only 4 cases of ignited leaks were recorded, over 127 accidents. None of the accidents recorded to have caused major releases ignited. Recent historical data demonstrate that the percentage of all accidents escalating in the ignition of leaks is very small – 3%. It may be argued that, in past years (e.g. 1920s – 30s), the ignition sources in the vicinity of gas holder installations would be many more. On the other hand, however, electrical antifreeze equipment, which appears to have been the cause for three out of four ignited releases and a number of further non-ignited leaks, was not used at the time. For ignited releases from total collapse / de-couplement accidents, the mechanisms of ignition could be different. Sources such as metal / metal sparking during collapse could be intrinsic to the accident modality and very local to the leak, causing ignition to be nearly instantaneous and more probable.

Release distributions were also derived for the same set of recent accidents. The majority of recorded releases (23%) were smaller than 10te. Only a small number of accidents (12), all due to mechanical / equipment failures, gave rise to gas leaks greater than 40te. These represent 10% of the reported events. However, if the severity distribution from quantified releases (45% of events) is applied to the 55% un-quantified events, the percentage of releases greater than 40te would go up to 21%.

**C5 CONSIDERATION OF IGNITION PROBABILITY**

Since the molecular weight of methane is 16, its density is only 55% of that of air, ie. 0.678kg/m<sup>3</sup>, and any release of natural gas will experience a significant buoyancy force. This will lift it up, and hence away from the ground where most likely ignition sources will be present. The effects of this buoyancy can be approximately assessed by assuming that any large volume of gas which is released will form a sphere, which will accelerate until it rises through the air with a terminal velocity.

Mass released = M kg

$$\text{Volume release} = \frac{M}{0.678} \text{ m}^3$$

$$\text{Radius of Sphere} = \left( \frac{3}{4\pi} \times \frac{M}{0.678} \right)^{1/3} = 0.71M^{1/3} \quad (m)$$

Downward force on sphere = Mg

$$\text{Upward buoyancy force} = \frac{M}{0.678} \times 1.225g$$

$$\begin{aligned} \text{Hence, net upward force} &= Mg \left( \frac{1.225 - 0.678}{0.678} \right) \\ &= 0.81Mg \end{aligned}$$

If this bubble moves upwards at v m/s, the drag force =  $\frac{1}{2} \rho A V^2 C_D$ , where

$\rho$  = density of air

$C_D$  = drag coefficient (=2 for a sphere)

A = cross sectional area of bubble

$$= \pi r^2 = 1.58 M^{2/3}$$

The terminal velocity is attained when the net upward force is equal to the drag force:

$$0.81Mg = \frac{1}{2} \times 1.225 \times 1.58 M^{2/3} \times V^2 \times 2$$

ie. 
$$V^2 = \frac{0.81gM^{1/3}}{1.225 \times 1.58} = 4.08M^{1/3}$$

Hence  $V = 2.02M^{1/6}$

For M=78,000kg (78t), this gives a terminal velocity of around 13m/s. It can be shown that 95% of this velocity is attained within the first 3 seconds, at which time the gas 'bubble' will have risen around 24m. Clearly, the gas will begin to disperse, forming a slightly less buoyant but larger cloud, for which the buoyancy force will be reduced, and the radius (and therefore the drag force) increased. However, the release mechanism is such that there is unlikely to be rapid initial mixing, which implies that the other calculations given above will apply to first order.

Although the HSE assessment of the 6 major releases in the early 20<sup>th</sup> century implied an ignition probability of 50%, this is considered to be overly conservative for the following reasons:

- a.) The greater ignitability of town gas (predominantly hydrogen) than that of the currently used natural gas (predominantly methane).
- b.) The potential under-reporting of large unignited releases. (It is unlikely that large ignited releases would go unreported.)
- c.) The size of the buoyancy effects noted above.
- d.) The historical record for 1970-2000, which shows an ignition probability of 3% overall and of zero for large releases.

On the basis of this information, it is proposed that an ignition probability of 10% is used for total collapse and decouplement events.

**C6 CONCLUSIONS**

Frequencies of accidents involving total collapse and seal de-couplement of gas holders were derived from statistical treatment of historical data. The figures obtained in Section C2.1 are reported in Table C7.

The only accidents involving de-couplement and total collapse with ignition, recorded in the industry, have occurred several decades ago and no other such accidents have been reported since. Hence, estimates of frequency expectancy, excluding the past events have been derived through the application of the Poisson distribution model using the approximate numbers of gas holder years since nationalisation (1950) and for the whole accident free period (since 1930). An ignition probability of 50% for major accidents and a further 10% probability of total collapse were assumed in Reference 2 (these factors were applied in Section C2.2. However, as described in Section C3, the results obtained from recent historical data related to accidents experienced recently in gas holders, show that only 3% of gas leaks resulted in ignitions. Since 1970, 16 events resulting in gas releases greater than 30te were reported, however none of these ignited. This historical evidence suggests that the 50% ignition probability assumed above may be too conservative. Hence, an ignition probability of 10% is considered more realistic and was applied to derive the expected frequencies reported in Table C7. The table summarises frequencies obtained in this study through the analysis of historical data and through the application of the Poisson distribution as well as the corresponding figures derived in References 1 and 2.

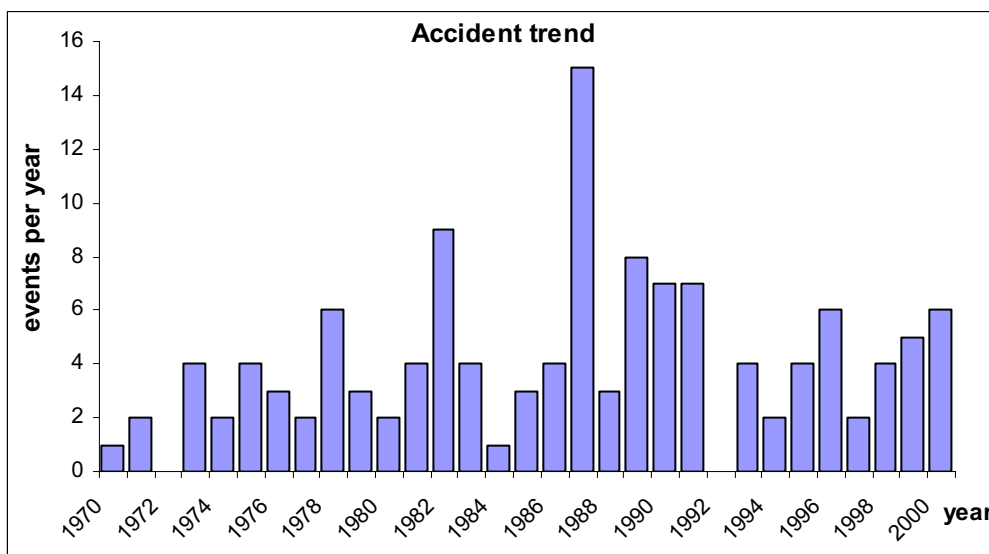
Accidents involving total collapse and decoupled seal (or worse) with ignition	Frequency (cpm / holder / year)				
	From historical data on accidents		Estimates from Poisson distribution		
	Ref. 1	Calculated	Ref. 2 since 1950	Calculated since 1950	Calculated since 1930
All	~15	11.5	21	15	~9
Decoupled seal (or worse) with ignition	~10	5.7	10	~1.5	~0.9
Total collapse with ignition	~5	3.8	~1	~0.15	~0.1

**Table C7 Comparison between predicted frequencies for accidents involving total collapse and decoupled seal (or worse).**

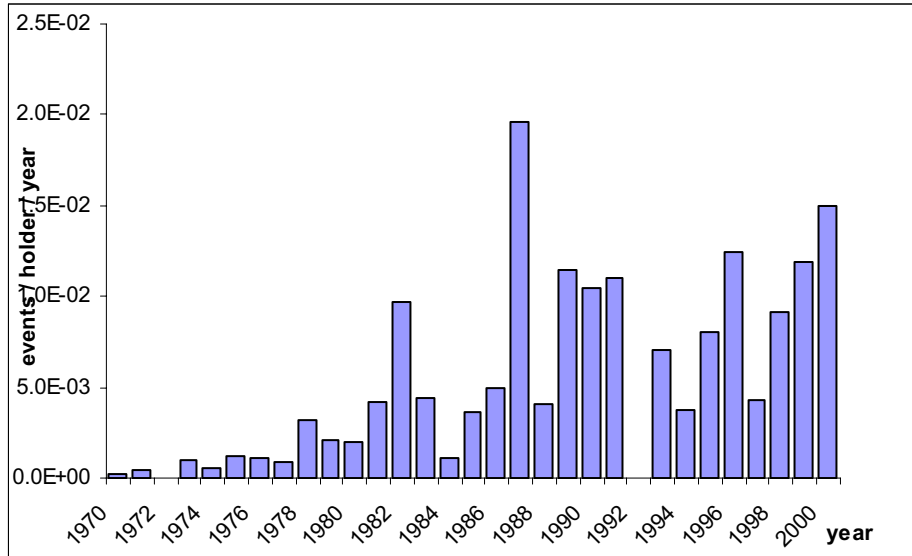
**REFERENCES**

- 1 Revision of HSE’s LUP assessment methodology for low pressure, water sealed, natural gas, gas holders. Part 4 – Decoupled seal and holder collapse events.
- 2 A Revised Three Zone LUP Siting Policy for Low Pressure, Water-Sealed Gas Gasholders Containing Natural Gas – Annex 2.

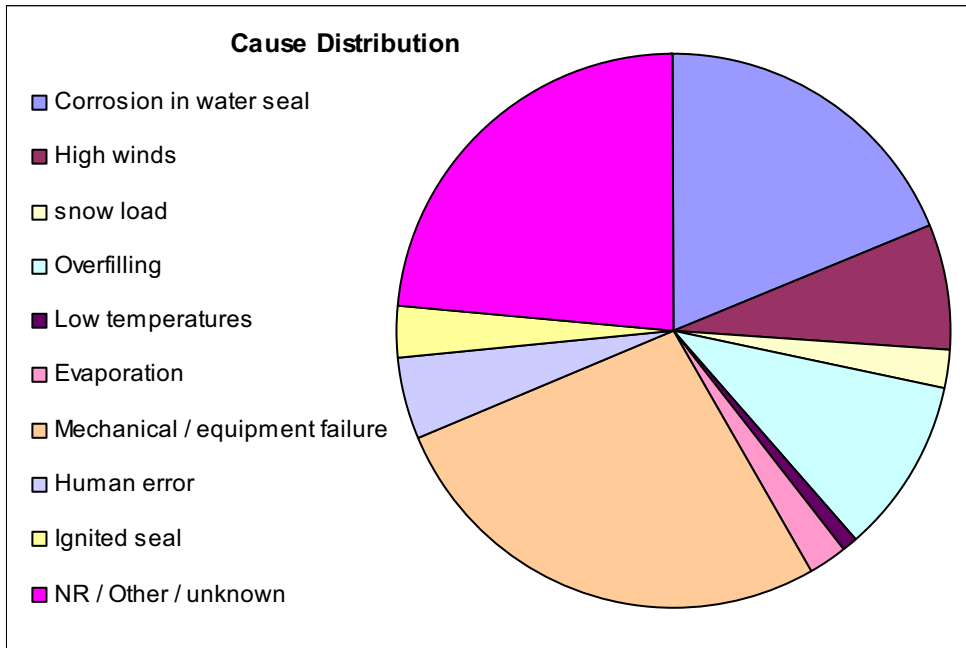
**FIGURE C2** Events involving gas leaks from water-sealed gas holders between 1970 and 2000



**FIGURE C3** Frequency of leak per holder per during the operational years between 1970 and 2000

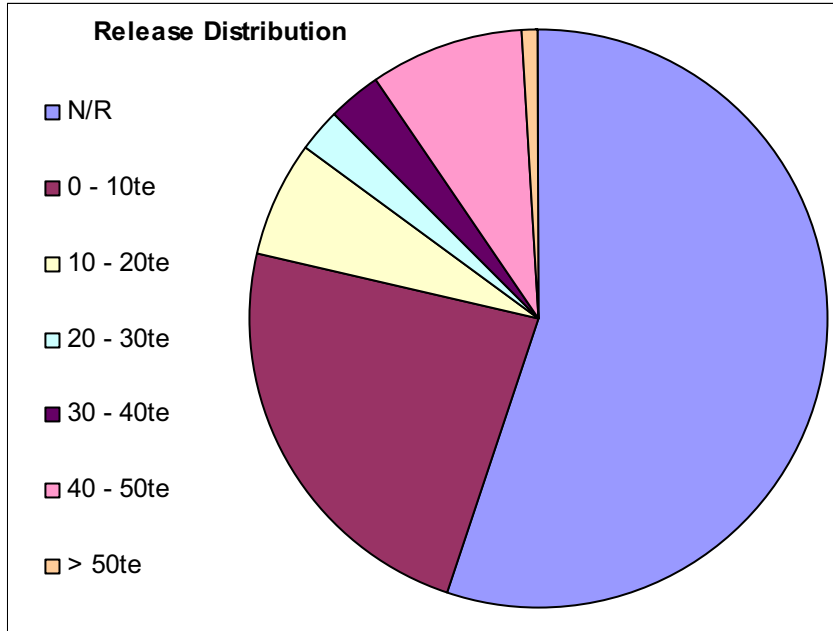


**FIGURE C4** Causal distribution for gas holder events occurring between 1970 and 2000

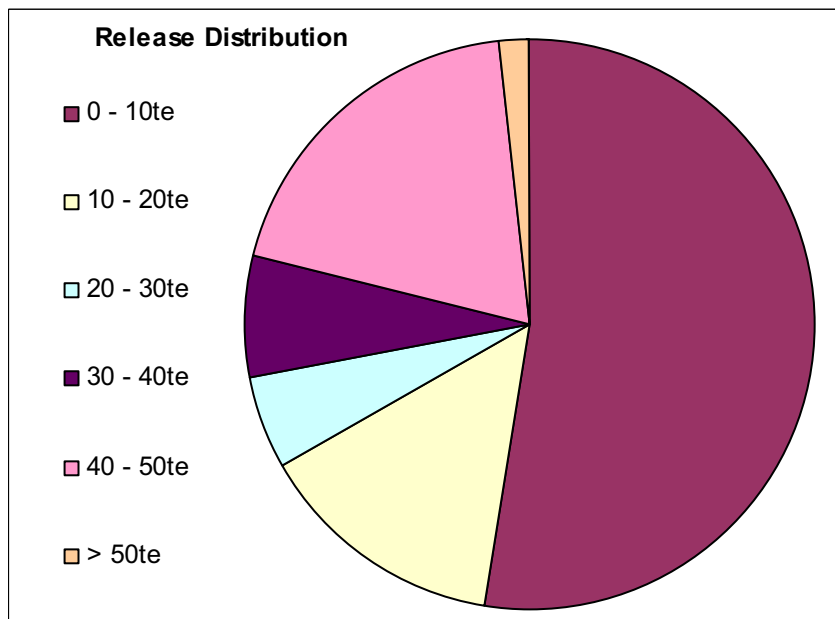




**FIGURE C5** Release distribution for gas holder events occurring between 1970 and 2000



**FIGURE C6** Release distribution for gas holder events occurring between 1970 and 2000 obtained by applying the severity distribution from quantified releases to un-quantified events



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**ATKINS**

## Comments on Atkins Oil & Gas assessment by HSE

1. In HSE's opinion, Atkins' assessment methodology for gasholders is not technically robust, and consequently they have significantly underestimated the risks to people at 33-37 The Oval. There is a real and recognised danger in allowing new intensive development, particularly of a multi-storey nature, close to water-sealed gasholders. This is the reason HSE sought and were granted 'call-in' of the application for the amended development even though it would have located slightly further away from the holders than the present, partly-constructed building. Whilst holders are proven storage technology, the additional measures that can be taken to prevent accidental escapes or mitigate their consequences are limited. It is for this reason that maintaining adequate separation from off-site development is crucial for this type of major accident hazard. In our opinion, the 'hardening' of the building in an attempt to reduce the risk is unacceptable where the occupants have no control over their exposure and obtain no direct benefit from it. Furthermore, comparisons of involuntary risk with generalised benchmarks such as annual risk of all deaths (including natural causes) or those where the population benefits in some way (employment) is misleading, particularly for a non-specialist audience, eg. the Council.
2. HSE considers that a gas escape when one or more of the water seals fail is also a serious major accident hazard. Such failures can occur for a number of reasons, including weather effects. There are typically 3 large gas escapes from seal failure each year in the country's holder population: on average at least one of these exceeds 30 tonnes. There were three large seal escapes last year, of which two occurred at holder stations in London. A holder at Bethnal Green suffered a large seal escape in 1986 which closed Liverpool Street Station: its cause was thought to have been vandalism.
3. Historically seal escapes have not resulted in significant harm, probably because of the reasonable separation between most holders and adjacent development, particularly of an high-rise nature. However, there have been five known seal fires (a very tall sheet of highly radiative flame around the holder's circumference) in the last 35 years. At least two of these required the evacuation of neighbouring populations. A seal fire is a potential precursor of a holder decouplement and collapse 'fireball' event.
4. If a seal escape does not ignite immediate, it can result in a flammable gas cloud which does not necessarily disperse upwards as expected. In wind speeds over 5m/s, the wake effect around the holder can cause the gas cloud to extend horizontally and downwards. This has been demonstrated in wind-tunnel and 1/3-scale practical tests. HSE knows of only one 'model' which has been satisfactorily validated for this type of dispersion. Predictions from a general purpose dispersion model such as HGSYSTEM would need very careful interpretation if they are not to mislead, particularly in view of the relatively short distance of interest (~20m).
5. The flammable cloud from a seal escape is predicted to extend out to 80m or more from the side depending on the diameter and type of holder under certain wind speeds. The cloud from a failed upper seal, if not already touching the ground, will descend as the holder empties enveloping anything in its path. There is little that can be done once a seal has failed other than to empty the holder into other available storage, but this can not be done quickly. By coincidence, one recent escape started when a technician was present on a holder station. Even though he was able to initiate prompt emergency emptying, half of the holder's contents still escaped.

6. Whilst a ground roughness length of 0.3 may be suitable for predicting long distance dispersion over an urban environment, it is unlikely to suitably represent the relatively short and 'open' distance between the two holders and 33-37 The Oval. In view of the 'knock-down' effect the holder has on gas dispersing in its wake, it is unlikely that the holder station perimeter wall will provide any significant mitigation.
7. It is HSE's understanding that the 18m exclusion distance for ignition sources (it is not claimed to be a safe separation distance) in IGEM SR4 was derived from early wind-tunnel tests which indicated a higher degree of buoyancy than was eventually found to be the case. The 2nd edition of the Safety Recommendations is now over 10 years old and when revised will no doubt more accurately reflect current knowledge.
8. Major holder failure (decouplement or collapse) has resulted in flames reaching ground level. At least one early Home Office investigation report describes people running to escape the fire as a holder collapsed.
9. Atkins has calculated the chance of safe dispersion (ie. no ignition) from a seal escape as 93% which appears unreasonably high in view of the short separation to high-rise, mainly residential nature of the 33-37 The Oval development.
10. Atkins' back analysis of the National Grid split crown explosion results is incorrect.
11. HSE disagrees with the event frequency analysis in Annex C. The information on which the analysis is based was obtained from the HSE and was not claimed to be exhaustive. The data was gathered for the specific purpose of determining whether the expected frequencies of decouplement and collapse major accidents exceeded that required to support a protection concept 'siting policy' for providing land use planning advice. When the necessary number of past events had been identified, HSE terminated its search. Other unidentified 'large scale' holder accidents have probably occurred in the past and consequently the Atkins' analysis could significantly underestimate the frequencies of these types of event.
12. As a result of Atkins' misunderstandings they have significantly underestimated the individual and case societal risks at 33-37 The Oval, possibly by more than a factor of five but probably by less than an order of magnitude. This appears to have mostly been caused by their inaccurately short seal escape dispersion distances (resulting from an unsuitable dispersion model, optimistic effect of perimeter wall, inappropriate ground roughness) and, consequently, very low ignition probabilities for this event. However, their very probable underestimation of the frequencies for larger major accident events will also have contributed.
13. The 'call-in request' SRI comparison values of 500,000 and 750,000 should only be used with individual risk values of receiving a dangerous dose or worse. HSE's unpublished comparison values for use with risk of death, as Atkins have used in their SRI calculation, are significantly lower so the comparison is inappropriate.
14. Gasholders are not used for just 6 months of the year. Holders were seen fully inflated in July this year. The current hazardous substances consent for the Bethnal Green Holder Station does not constrain storage to certain times of the year. However HSE notes that the Council, acting as Hazardous Substances Authority, has the power to modify the consent if it wishes, although we understand that compensation may be payable to the operator if they did so.
15. It is noted that Atkins advises that ideally both terraces should be removed or made inaccessible for normal use. In HSE's opinion signage is unacceptable as a way of

ensuring the absence of ignition sources. In view of their underestimated dispersion distances, Atkins' recommendation regarding the occupation of front terraces is unsound. Furthermore, openings further than 18m from the gasholder could result in gas ingress and an internal building explosion under certain weather conditions.

16. A normal construction building is unlikely to withstand the almost 1 bar overpressure predicted by Atkins. Furthermore, the application of film or the provision of shatter-proof windows may at best just result in the blast forces being transferred to the frames and adjacent wall which in turn could result in partial or complete building collapse. The adequate 'hardening' of normal buildings against heat and blast is highly specialised, requires considerable expertise and may be impossible for a partly constructed building.
17. HSE 'tolerability' framework in R2P2 was not designed to judge the incompatibility of proposed land uses close to major accident hazard establishments. Consequently, its attempted use by Atkins to justify the acceptability of the development at 33-37 The Oval is misleading. The substantial level of individual risk to occupants is the reason HSE sought and were granted 'call-in' of the application for the amended development even though it would have located slightly further away from the holders than the present, partly-constructed building.
18. The comparison of the risk to occupants with generalised benchmarks such as annual risk of all deaths (including natural causes) or those where the population benefits in some way (employment) is misleading, particularly for a 'lay' audience, eg. the Council, who are not used to making risk-based decisions.

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## Appendix E

### Response to HSE comments.

#### E1 General Comments

Atkins has sought to provide a realistic best estimate of the actual risks posed by the gas holders to the proposed development at 33-37 The Oval. In particular, it is recognised that there are always uncertainties in such an approach, and the rather more cautious HSE approach is considered to be entirely appropriate for use in the PADHI screening tool. However, even allowing for the variations in approach, many of the differences between the results are a consequence of the paucity of the data available, together with the uncertainties associated with their interpretation. This is discussed further in the detailed responses below.

#### E2 Detailed Responses

- 1) This seems to be a general criticism which is backed up by more detail in the subsequent comments. However, since there are some details here which are not specifically raised elsewhere, the response covers each briefly in turn.
  - a. It is generally accepted that an assessment of this nature includes many uncertainties, and these have been noted; on the basis of some of the new information which HSE has now identified, it is possible that there is a potential slight under estimate.
  - b. Atkins concedes that dispersion distances determined are potentially underestimated for higher wind speeds. However, the vertical cross section of the building only just intersects with the most likely potential dispersion profiles (see Response 12).
  - c. Building hardening is a secondary issue, and would mitigate against minor incidents (see Response 16).
  - d. Presentation of risk with no comparison could be misleading (see Response 18).

It seems that there are 2 major issues:

- i. Dispersion modelling - this has been shown to give a minor change to the results (see Response 12)
- ii. Ignition probability - HSE have not given a robust rebuttal of the Atkins assessment (see Response 9 & 11)

Although the HSE did not directly query the seal fire modelling methods used, investigations into the comments have led Atkins to refine its modelling of seal failure fire events. These changes have had the effect of slightly increasing the risk results observed at The Oval. Using *all* of the newly available information, it is concluded that the results have been underestimated by *up to* a factor of 2.

- 2) These types of event have been considered, as leading to either seal fires or flash fires. Atkins concedes that assuming seal failures occur over only a 10m span of seal may underestimate the consequence of some of these events.

The modelling of flash fires has been discussed in more detail in Response 12. The frequency of such events has been based on the information which has been reviewed in Appendix C, covering a 30 year period, which does not seem to bear out the '3 large seal escapes per year' which HSE refer to. Ignition probability is discussed in Response 7, and the general lack of availability or accessibility of validated historical data is discussed in Responses 10 & 11.

- 3) Seal fires have been considered, and shown (Table 4.8) to contribute 33% to the risk at the nearest edge of the proposed development; as a result, the requirement for adequate evacuation provision has been recognised within the report. However, as stated above Atkins concedes that it may be appropriate to assume that a small percentage of seal fires will propagate into large seal fires and this has not been accounted for in modelling to date. The effects of this change are included within the overall factor of 2 noted at the end of Response 1.

The fact that a seal fire may be a precursor to a larger fireball event does not affect the statistical analysis in Appendix C, since it has considered all large scale release and fireball events from whatever cause. It is also noted that there are existing developments already adjacent to gas holder sites, and that many of them are industrial, which could provide ignition sources, so lack of ignition may not be solely due to separation.

- 4) Atkins concedes that modelling dispersion distances using conventional dispersion models may produce slightly underestimated results *for higher wind speeds*. However, results presented in Cleaver & Halford (2004) show that, even for the worst transient release from a 70m gas holder, concentrations above the lower flammable limit (LFL) exist only to 18m downwind at ground level (in extremely rare high wind speeds), although they may extend to around 35m downwind at higher elevations (around 15-20m high) in more common moderate wind speeds (5m/s). Note that further discussion regarding the use of HGSYSTEM has been given in Response 12.
- 5) The 80m quoted here almost certainly refers to the distance to  $\frac{1}{2}$  LFL, at which it is sometimes considered that ignition could occur. In practice, sustained ignition is unlikely to occur at less than 70% of LFL, but the area covered by a flash fire will effectively be restricted to the smaller area covered by the LFL contour, in line with the most common modelling approach of such effects in QRA studies. See further discussion in Response 12.
- 6) The effective roughness length is determined by upwind fetch, as well as the distance over which the leak disperses. The value of 0.3m is considered appropriate to an urban or suburban area, as recommended by the HSE within the Safety Assessment Report Guide for installations of this nature.
- 7) The reference to IGEM SR4 was primarily for comparison and completeness, and is not critical to the QRA results presented. It is recognised that this may be updated in due course in the light of improved information.
- 8) Atkins agrees with HSE's comment, and so this point is not an issue, since the QRA has considered major holder failure (both total loss and decouplement). The fireball modelling for these cases effectively allows for flames reaching ground



level by taking 100% fatality probability within the area covered by the projection of the fireball radius onto the ground below.

- 9) This represents an ignition probability of 7%. Given the statistics reviewed in Appendix C, there appears to be at most an overall probability of ignition of any release from a gas holder of around 3-4%. Indeed, if the information was not exhaustive (as noted in HSE's comment 11), this is probably an over-estimate, since releases are much more likely to go unreported if they are unignited than if they are ignited.
- 10) Atkins cannot comment without further detail. However, it is noted a) that the contribution to risk from such events is small (<10%), and b) that the assessment of risks from Major Hazard sites would be considerably easier if more detail of the predictive aspects of COMAH reports could be made available. In this case, National Grid did supply some information, but it was not complete. Nevertheless, on the basis of a) above, this does not represent a major issue.
- 11) This is the only information which Atkins had available with which to perform such a frequency analysis. Given the current interest in developments close to gas holders, and the amount of potential development which could be affected, it would seem important to ensure that the best possible and fullest information is made available to interested parties so that the real risks can be quantified with greater certainty. It seems that the main difference between Atkins' analysis and HSE's interpretation is the appropriate value of ignition probability. This is discussed in some detail in Section C5, but HSE have made no specific attempt to refute or improve upon the analysis. It is understood that HSE have generally made rather conservative interpretations of the data, in order to decide whether certain major events should be used to set planning zone boundaries. Atkins agrees that this approach is entirely reasonable in the context of deriving a standard methodology for setting such boundaries. The approach taken by Atkins, however, has been to determine best estimate values, whilst remaining conservative, in order to ensure that a realistic understanding of the risks is obtained.
- 12) It is acknowledged that the dispersion of gas from a seal failure is a complex phenomenon, and may not be adequately modelled by a simple model such as HGSYSTEM. The alternative, as suggested by Cleaver and Halford and discussed in Responses 4 & 5 above, is also a simplification, in that it does not allow for the presence of adjacent gas holders, or the deflection of the flow by downwind obstructions such as walls. Nevertheless, the maximum downwind range to LFL which Cleaver and Halford give for a transient seal failure from a 70m gas holder (larger than any at Bethnal Green) is, as noted above, around 30-35m. It is important to note, however, that the results show this peak at around 15-20m above ground level. The presence of the boundary wall would deflect this further upwards, so that only a small part of the building would be within the flammable envelope. Furthermore, the maximum dispersion ranges from the adjacent holders, as quoted in the National Grid Bethnal Green gas holder station COMAH report, is 27m. Considering that this distance to LFL would be observed approximately 10-20 meters above ground level (in the worst case release), this underestimate is not considered likely to change the results significantly.

In order to determine the effects of larger flammable envelopes, subsequent sensitivity calculations have been undertaken, in which the cloud footprints calculated from HGSYSTEM have been doubled (giving a *ground level* hazard

range of around 27m, which is equal to the maximum dispersion distance quoted in the COMAH report, and envelops the nearest edge of the proposed development). This would increase the *outdoor* risk from 11.7 cpm to 14.7 cpm at the nearest location, but would not change it at the furthest location.

Note that the results presented in the report are for risks to a person who is outdoors for 100% of the time. This is conservative, and was presented since there is little protection for people indoors from the major contributing events. With the modified modelling of flash fires described above, there is a greater difference, and the risk to a residential population (indoors 90% of the time) would only be increased from 11.7 cpm to 12.2 cpm. Overall societal risk will be little changed by this increase.

The ignition probability which has been used has been taken from standard models, and is shown to be conservative relative to the historical data analysed in Appendix C. It is independent of the cloud envelope, and this approach is consistent with the level of detail which is used in current QRA modelling.

- 13) In Section 5.4, following the equation for SRI, it is explicitly stated that R is the risk of exceeding dangerous dose. Confusion seems to have arisen because the average R  $[(15.4 + 8.9)/2 \text{ cpm}]$  is almost identical to the risk of fatality at 'Development nearest' [11.7 cpm]. Hence the comparison *is* appropriate.

It is noted that Atkins believes that the analysis has potentially *overestimated* the SRI value by using conservative numbers of residents at the development, relative to the way in which HSE would normally calculate SRI. Using an average value of 2.5 people per unit, the number of residents may be calculated as  $14 \times 2.5 = 35$ , and the *effective* number of office workers can be reduced by a factor of 4 ( $16 \times 0.25 = 4$ ) in line with the detail given in the paper by Carter (1995).

Taking  $n = 35$  people for 70% of the time and  $n=39$  people (residents + 0.25 x workers) for 30% of the time,  $R = (15.8+8.8)/2=12.3 \text{ cpm}$ , (based on the revised risks calculated as noted in Response 11) and  $A = 0.056 \text{ ha}$  (approximate area), gives:

$$SRI = \frac{(35 + 35^2)/2 \times 12.3 \times 0.70}{0.056} + \frac{(39 + 39^2)/2 \times 12.3 \times 0.30}{0.056} \approx 148,000$$

This is actually around half of that presented in the report. It is noted that even an increase in R by a factor of 5 (as suggested by HSE) would result in the SRI being close to, but remaining less than, the 750,000 call-in value. Note also that an increase in R by a factor of 2 (which Atkins now believes may be more representative of the real risk) would result in the SRI still remaining less than the 750,000 call-in value.

- 14) When enquiries were made of National Grid, they stated the operational profile which has been reproduced in Section 4.1. Since no account has been taken of this operational profile when determining the event frequencies, any changes to the profile would not change the risk estimates.
- 15) It is agreed that non-occupation would be better than signage. However, in view of the small difference between outdoor and indoor risks, such a measure may not reduce the risk significantly. The front terraces are more than 35m from either gas holder, and therefore, on the basis of the Cleaver & Halford dispersion results, are extremely unlikely to be within a flammable cloud.

- 16) It is agreed that building collapse would be the most likely result of the blast effects of the worst cases considered. However, much of the injury potential from lesser events (not specifically modelled in the QRA) would be from flying shards of broken glass, and this could be minimised by use of shatter-proof windows.
- 17) In no way is Atkins seeking to use R2P2 to justify the acceptability of the development. As stated in the second sentence of Section 5.3, it is used to set the level of risk in the context of typical major hazard risks. It has been acknowledged that the risks are rather higher than the levels which HSE would consider appropriate for a development of this nature, and it has been emphasised that it is Tower Hamlets' responsibility to weigh up these risks before making a final decision.
- 18) Quoting risks in terms of cpm would mean very little to a lay audience unless they were compared with something to which they could relate. Whilst the occupational risks quoted are at the higher end of such risks, and may not be experienced by many of the likely audience, road accident risks, for example, are events to which most people *can* relate. It is clear that the risks are different, but the list set out in Section 5.2 at least puts the magnitude of the risks at the development into context.

### **E3 Conclusions**

On consideration of HSE's comments, the Atkins assessment gives a slight under-estimation of the risks (approximately by a factor of 2), as discussed in Response 2 and 12 above. This implies that the risks would be relatively high but still not intolerable. It also implies that, because of the relatively small scale of the development, the associated societal risk would be unlikely to exceed the SRI call-in criterion of 750,000. If HSE, or the gas distribution companies, were able to supply improved or more up to date information, the overall risk assessment could be refined further.

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# Agenda Item 8.2

<b>Committee:</b> Strategic Development	<b>Date:</b> 8 <sup>th</sup> November 2007	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 8.2
<b>Report of:</b> Corporate Director of Development and Renewal		<b>Title:</b> Millennium Quarter and Docklands Light Railway – Deed of Variation	
<b>Project Officer:</b> David Williams, Development Manager		<b>Ref No:</b> <b>Ward(s):</b> Millwall and Blackwall and Cubitt Town	

## 1. SUMMARY

- 1.1 This report concerns an existing legal agreement between the Council and the Docklands Light Railway (DLR) to use s106 resources from the Millennium Quarter (MQ) development contributions for the provision of DLR station improvements at South Quay.
- 1.2 A legal agreement secured in October 2003 identifies that on collection of £9 million (as indexed linked from 1<sup>st</sup> April 2002) for the station improvements from the developers within the MQ the payment is triggered to the DLR. They will in exchange provide station improvements with the capacity to accommodate the new workers and residents in the Millennium Quarter. It will also be an important asset for the Isle of Dogs as a whole.
- 1.3 This report is required because the DLR are in a position to deliver the station improvements before the £9 million (index linked) has been collected. This report seeks to secure Members approval to agree to a Deed of Variation to the existing agreement to provide for a total maximum payment to DLR of £7 million, which is currently collected. This can then be paid over to the DLR within the financial year 2007-08.
- 1.4 It is anticipated that this will deliver the necessary station improvements for the Isle of Dogs by 2010.
- 1.5 The £2 million of s106 released from this allocation will need to be re-allocated to existing "Authorised Works" (see paragraph 3.3 below) or consideration given to whether it might be applied to new projects linked to the MQ. The various s106 agreements entered into to-date with landowners/developers include a procedure for agreement or determination of additional/alternative projects which are considered necessary or appropriate in connection with the development of the MQ. The MQ Developers Liaison Group will lead this process.

## 2. RECOMMENDATIONS

- 2.1 That the Committee agree to vary the legal agreement dated 24<sup>th</sup> October 2003 between the London Borough of Tower Hamlets and Docklands Light Railway Limited relating to station improvements at South Quay.
- 2.2 That the Committee authorise officers to negotiate and complete the necessary Deed of Variation to the 2003 agreement to revise the payment to DLR and to include any appropriate consequential amendments to the

agreement, to the satisfaction of the Assistant Chief Executive (Legal Services).

### **3. BACKGROUND**

3.1 The Isle of Dogs Area Action Plan (AAP) interim planning guidance, as adopted by Cabinet on 7<sup>th</sup> September 2007, identifies the Millennium Quarter as part of the Central Sub-area.

3.2 The Millennium Quarter Masterplan was adopted as Interim policy on 13<sup>th</sup> September 2000 by the Policy and Implementation Committee. The masterplan provides a planning framework for the area and is used to determine planning applications within the boundary. This is shown attached on Plan A.

3.3 The Millennium Quarter Masterplan covers an area of 20 hectares at the heart of the Isle of Dogs. It promotes a high quality, mixed use, urban quarter with new residential, commercial office space, hotel, retail and leisure uses. The masterplan when implemented over an estimated 15 year period will deliver:

- a minimum of 2000 new housing units;
- affordable housing in accordance with policy targets;
- an estimated 5 million sq/ft of commercial uses (offices, hotels etc);
- new jobs and training opportunities.

3.3 It will also secure circa £36 million from s106 payments for a range of infrastructure and other projects related to the development of the MQ, including:

- A range of new open spaces;
- improved public realm and streetscape throughout the quarter;
- a new DLR station at South Quay;
- a new, second, pedestrian bridge between South Quay and Canary Wharf;
- highway improvements in the area;
- new bus services.

3.4 The Development Panel on 19<sup>th</sup> April 2002 received a detailed report updating the Panel on the extensive negotiations at that time on the MQ. This included those on Third Party agreements such as that needed for the DLR station and attached a Developers Guidance Note detailing the s106 Framework for the MQ.

3.5 This Guidance Note explains all the pieces of infrastructure that are required to support the build out of the MQ area. It provides costs, as at April 2002, (which are to be index linked from this date to the date of payment) and details the mechanism by which the monies are secured through in the individual s106 agreements. This note also details the prioritisation of the various improvements, it lays out what is needed, by when to support the MQ developments and the wider area. It also details that a number of Third Party agreements are needed and being negotiated, specifically in this instance the DLR South Quay station agreement.

#### **4. DLR Third Party Agreement**

- 4.1 As part of the MQ negotiations the Council agreed and signed a Third Party legal agreement with the Docklands Light Railway on the 23<sup>rd</sup> October 2003.
- 4.2 The Third Party agreement identifies that the Millennium Quarter masterplan needs an up-graded station to accommodate the anticipated increase in usage as a direct result of the levels of development promoted by the Millennium Quarter Masterplan. In exchange for making provision for these additional people the legal agreement identifies that the DLR will receive up to £9 million (index linked from 1<sup>st</sup> April 2002) to provide the station improvements. This agreement was an essential component of the MQ in that the early commercial developers could not commence their developments until it was agreed and signed, thus ensuring provision of the necessary station capacity.
- 4.3 The Third Party agreement allows for the necessary station improvements to be either works to the existing station at South Quay to increase its capacity or the provision of a new station further along Marsh Wall. There is a schedule attached to the agreement which identifies the minimum components of such improvements such as:
- capacity to take up to 4000 per hour in each direction;
  - all the platform, circulation and passageway arrangements needed to do this;
  - a station to include staircases, escalators and lifts, as necessary, to all be compliant with Disability Discrimination Act and other statutory requirements at the current time;
  - station to have necessary signage, ticketing and passenger information in accordance with operational and statutory requirements.
- 4.4 The option of more than one location is because during negotiations, at that time, it became clear that the DLR were ideally wanting a 3 car solution for the Bank – Lewisham line, but this had not been secured through a Transport and Works Order at that time. The Order has since been confirmed and the works for the 3 car project are underway with the station being provided in a new 3 car capacity location. Officers understand that works will shortly be underway and that the old station will be removed following the completion of this work and opening of new station.
- 4.5 The agreement makes provisions in detail for the triggering of the payment to the DLR and lays out a detailed approach to application for preliminary costs as well as building in a mechanism to assess and confirm estimated costs and actual costs. By revising the provisions with regard to payment and by not now formally activating the preliminary process (which was designed to provide support for the process to secure final planning approvals which has now taken place) the arrangements going forward should be more straightforward.

#### **Funding**

- 4.6 The Guidance Note on the s106 Contributions Framework for Developers identifies the new station/station up-grade as priority one. This means that as the monies are secured from MQ developers through s106 agreements this project is one of the first to build up its contribution.

- 4.7 Subsequently since 2000, the Council has been collecting s106 contributions towards the provision of the up-graded station facility at Marsh Wall. The Council has now collected £7 million towards this item.
- 4.8 The costings in detail allow £7.2 million to provide the station and an additional £1.8 million in contingencies.
- 4.9 In securing the station improvements for £7 million this will release the balance of £2 million contingency for re-allocation to projects within the MQ, known as “Authorised Works” or (subject to agreement or determination through the procedure in the MQ s106s) to alternative/new projects linked to the MQ. This process will be led by the MQ Liaison Group. The Liaison Group is operated by the Council and co-ordinates the various active MQ developers who are, through their s106 agreement, participants in this arrangement.

### **Deed of Variation**

- 4.10 The Deed of Variation required will now address a number of points:
- secure the trigger at £7 million not £9 million;
  - clarify that £7 million is the sum to be paid – this is not index linked;
  - remove the improvements to the existing station as an option - this has now been replaced by the 3 car option at a new station;
  - any other connected issues within the agreement;
- 4.11 If Members agree to a Deed of Variation Officers will work with legal advisers to negotiate and complete the agreement.

## **5. FINANCE COMMENTS**

- 5.1 An Agreement was put in place in 2003 that up to £9 million of Section 106 resources, accruing from developments within the Millennium Quarter, would be made available to the Docklands Light Railway for DLR station improvements at South Quay.
- 5.2 The original estimates included various contingencies and was originally focused on the existing location at South Quay being expanded. It has now been determined that the station improvements can be provided with a reduced contribution of £7 million from Section 106 resources, as outlined in this report.
- 5.3 The total cost of providing the station is in excess of £20 million, but the £7 million contribution is the full extent of the Authority’s financial input. The responsibility for financing any overspend that may arise on the contract will rest with the DLR which has earmarked provisional funding in the event of this scenario arising.
- 5.4 It is anticipated that the funds will be released in one lump sum to the DLR. To ensure that the resources are protected, appropriate safeguards must be built into the legal contracts to ensure the return of the resources to the Authority if the station is not completed in accordance with the signed agreements.
- 5.5 As a result of the revised agreement, £2 million of previously earmarked Section 106 resources will now be made available to finance infrastructure and other projects within the Millennium Quarter (as shown in paragraph 3.3).



The Millennium Quarter Liaison Group, which is led by the Council, will coordinate the use and allocation of these resources (see paragraph 4.9).

## **6. LEGAL COMMENTS**

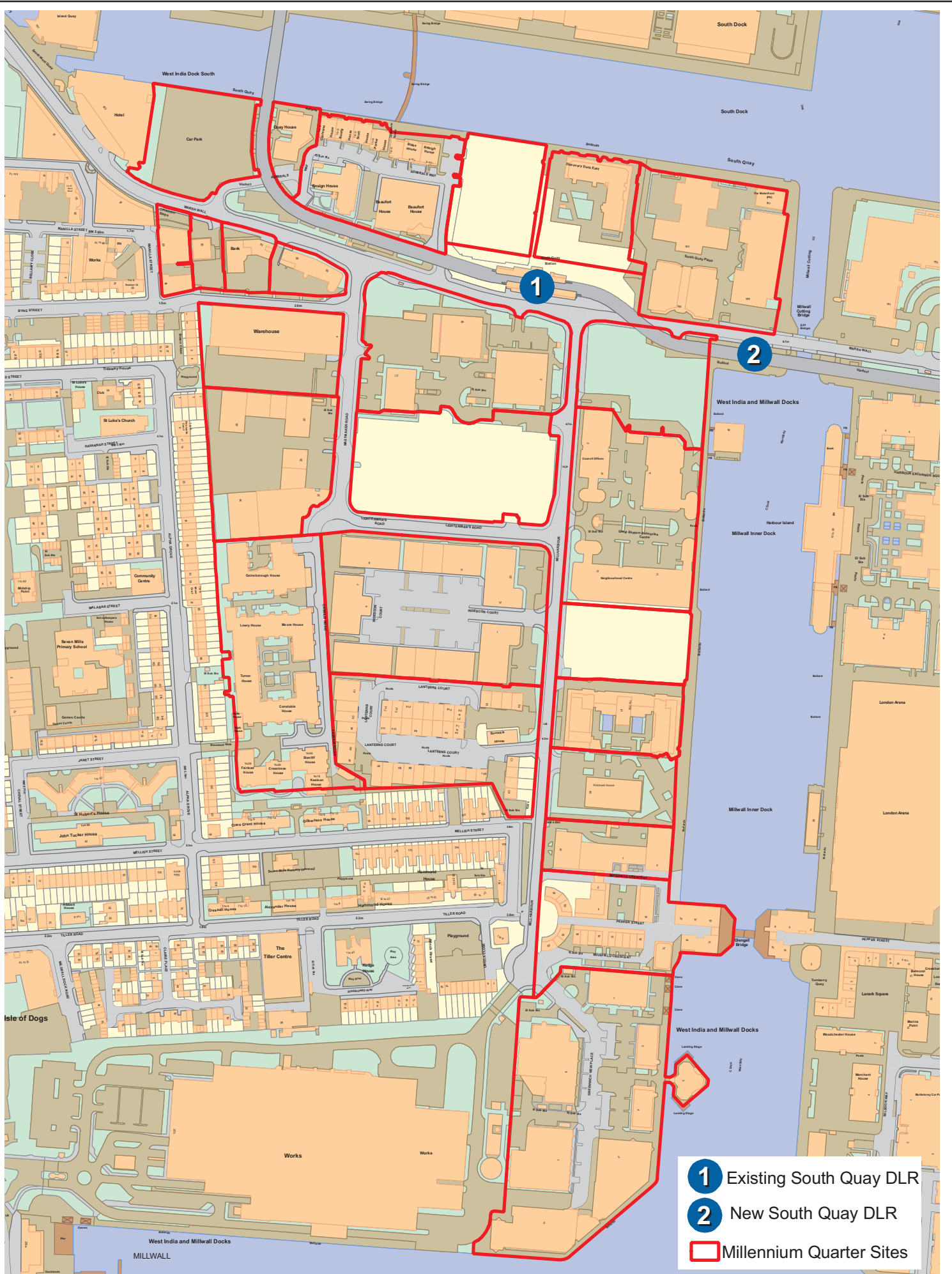
- 6.1 The agreement dated 24<sup>th</sup> October 2003 was made under Section 106 of the Town & Country Planning Act 1990 and Section 16 of the Greater London Council (General Powers) Act 1974. Section 106 confers power on local planning authorities to enter into planning obligations. Section 16 concerns undertakings/agreements in respect of legal interests in land and which are given to/entered into by deed with local authorities.
- 6.2 Section 106A of the 1990 Act enables the modification or discharge of planning obligations and it is proposed that the variation of the 2003 agreement is entered into under this power and also under Section 16 of the 1974 Act. Section 16 does not contain any specific requirements in relation to the variation of undertakings or agreements given under that provision and any variation of the agreement will be subject to normal rules, which for present purposes will require the variation to be by way of deed. This is a requirement of Section 106A in any event.

## **7. CONCLUSIONS**

The Deed of Variation for this Third Party Agreement will allow the Council to secure the early release of its s106 contribution towards the provision of a new DLR 3 car capacity station at South Quay.

This will release an additional £2 million for projects in and around the Millennium Quarter. Officers consider this Deed of Variation should be supported to enable the 3 car works on the new station to commence as quickly as possible and deliver a new station for the Isle of Dogs within the timings required by the DLR for the 3 car Bank – Lewisham project.

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# Plan A: Millennium Quarter - DLR South Quay Station



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