

Meeting of the

# DEVELOPMENT COMMITTEE

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Wednesday, 14 August 2013 at 7.00 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

Members:	Deputies (if any):
Chair: Councillor Helal Abbas Vice-Chair: Councillor Anwar Khan	
Councillor Tim Archer Councillor Judith Gardiner Councillor Kosru Uddin Councillor Gulam Robbani 1 Vacancy	Councillor Zara Davis, (Designated Deputy representing Councillor Tim Archer) Councillor Peter Golds, (Designated Deputy representing Councillor Tim Archer) Councillor Md. Maium Miah, (Designated Deputy representing Councillor Gulam Robbani) Councillor Denise Jones, (Designated Deputy representing Councillors Helal Abbas, Judith Gardiner, Anwar Khan and Kosru Uddin) Councillor Rajib Ahmed, (Designated Deputy representing Councillors Helal Abbas, Judith Gardiner, Anwar Khan and Kosru Uddin) Councillor Carli Harper-Penman, (Designated Deputy representing Councillors Helal Abbas, Judith Gardiner, Anwar Khan and Kosru Uddin)

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

**Committee Services Contact:**

Zoe Folley, Democratic Services,

Tel: 020 7364 4877, E-mail: [zoe.folley@towerhamlets.gov.uk](mailto:zoe.folley@towerhamlets.gov.uk)

<http://www.towerhamlets.gov.uk/committee>

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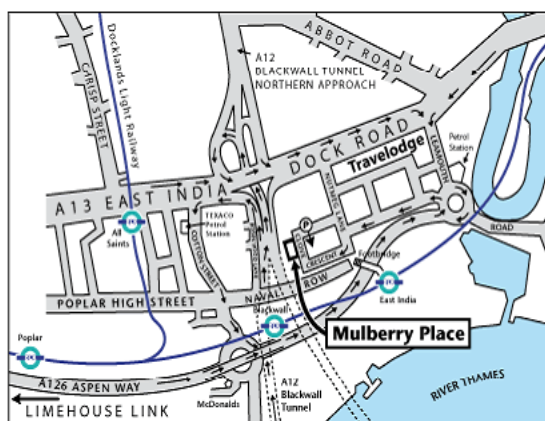
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QR code for smart phone users

# LONDON BOROUGH OF TOWER HAMLETS

## DEVELOPMENT COMMITTEE

Wednesday, 14 August 2013

7.00 p.m.

### 1. APOLOGIES FOR ABSENCE

To receive any apologies for absence.

### 2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

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. See attached note from the Monitoring Officer.

### 3. UNRESTRICTED MINUTES

To confirm as a correct record of the proceedings the unrestricted minutes of the ordinary meeting of Development Committee held on 17<sup>th</sup> July 2013.

**PAGE  
NUMBER**      **WARD(S)  
AFFECTED**

**5 - 12**

### 4. RECOMMENDATIONS

To RESOLVE that:

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

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

To note the procedure for hearing objections at meetings of the Development Committee.

**13 - 14**

The deadline for registering to speak at this meeting is Monday 12<sup>th</sup> August 2013.

## **6. DEFERRED ITEMS**

Nil items.

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

**15 - 16**

**7 .1 Central Foundation Girls School Lower School,  
College Terrace, London, E3 5AN 9 (PA/12/02576,  
PA/12/02577 and PA/12/02578)**

**17 - 54**

**Bow West**

**7 .2 4 Crispin Street, E1 (PA/13/00719)**

**55 - 68**

**Spitalfields  
&  
Banglatown**

## **8. OTHER PLANNING MATTERS**

**69 - 70**

**8 .1 PLANNING APPEALS REPORT**

**71 - 78**

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# Agenda Item 2

## **DECLARATIONS OF INTERESTS - NOTE FROM THE MONITORING OFFICER**

This note is for guidance only. For further details please consult the Members' Code of Conduct at Part 5.1 of the Council's Constitution.

Please note that the question of whether a Member has an interest in any matter, and whether or not that interest is a Disclosable Pecuniary Interest, is for that Member to decide. Advice is available from officers as listed below but they cannot make the decision for the Member. If in doubt as to the nature of an interest it is advisable to seek advice **prior** to attending a meeting.

### **Interests and Disclosable Pecuniary Interests (DPIs)**

You have an interest in any business of the authority where that business relates to or is likely to affect any of the persons, bodies or matters listed in section 4.1 (a) of the Code of Conduct; and might reasonably be regarded as affecting the well-being or financial position of yourself, a member of your family or a person with whom you have a close association, to a greater extent than the majority of other council tax payers, ratepayers or inhabitants of the ward affected.

You must notify the Monitoring Officer in writing of any such interest, for inclusion in the Register of Members' Interests which is available for public inspection and on the Council's Website.

Once you have recorded an interest in the Register, you are not then required to declare that interest at each meeting where the business is discussed, unless the interest is a Disclosable Pecuniary Interest (DPI).

A DPI is defined in Regulations as a pecuniary interest of any of the descriptions listed at **Appendix A** overleaf. Please note that a Member's DPIs include his/her own relevant interests and also those of his/her spouse or civil partner; or a person with whom the Member is living as husband and wife; or a person with whom the Member is living as if they were civil partners; if the Member is aware that that other person has the interest.

### **Effect of a Disclosable Pecuniary Interest on participation at meetings**

Where you have a DPI in any business of the Council you must, unless you have obtained a dispensation from the authority's Monitoring Officer following consideration by the Dispensations Sub-Committee of the Standards Advisory Committee:-

- not seek to improperly influence a decision about that business; and
- not exercise executive functions in relation to that business.

If you are present at a meeting where that business is discussed, you must:-

- Disclose to the meeting the existence and nature of the interest at the start of the meeting or when the interest becomes apparent, if later; and
- Leave the room (including any public viewing area) for the duration of consideration and decision on the item and not seek to influence the debate or decision

When declaring a DPI, Members should specify the nature of the interest and the agenda item to which the interest relates. This procedure is designed to assist the public's understanding of the meeting and to enable a full record to be made in the minutes of the meeting.

Where you have a DPI in any business of the authority which is not included in the Member's register of interests and you attend a meeting of the authority at which the business is considered, in addition to disclosing the interest to that meeting, you must also within 28 days notify the Monitoring Officer of the interest for inclusion in the Register.

**Further advice**

For further advice please contact:-

Isabella Freeman, Assistant Chief Executive (Legal Services), 020 7364 4801; or  
John Williams, Service Head, Democratic Services, 020 7364 4204



## APPENDIX A: Definition of a Disclosable Pecuniary Interest

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

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

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**LONDON BOROUGH OF TOWER HAMLETS**

**MINUTES OF THE DEVELOPMENT COMMITTEE**

**HELD AT 5.30 P.M. ON WEDNESDAY, 17 JULY 2013**

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

**Members Present:**

Councillor Helal Abbas (Chair)  
Councillor Anwar Khan (Vice-Chair)  
Councillor Judith Gardiner  
Councillor Kosru Uddin  
Councillor Gulam Robbani (Executive advisor to the Cabinet and  
Mayor on adult social care)  
Councillor Peter Golds (Substitute for (Leader of the Conservative Group)  
Councillor Tim Archer)

**Other Councillors Present:**

Councillor Marc Francis

**Officers Present:**

Jerry Bell – (Applications Team Leader, Development and  
Renewal)  
Jane Jin – (Planning Officer, Development and Renewal)  
Iyabo Johnson – (Planning Officer, Development and Renewal)  
Amy Thompson – (Deputy Team Leader, Development and  
Renewal)  
Elaine Bell – (Legal Advisor, Chief Executive's)  
Zoe Folley – (Committee Officer, Democratic Services Chief  
Executive's)

There was a change in the order of business at the meeting but for ease of reference the items are set out in agenda order in this decision sheet.

**1. APOLOGIES FOR ABSENCE**

Apologies for absence were submitted from Councillor Tim Archer for whom Councillor Peter Golds was deputising for item 7.1 only.

Apologies for lateness were submitted from Councillors Kosru Uddin, Judith Gardiner and Anwar Khan.

**2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS**

No declarations of disclosable pecuniary interests were made.

Councillor Judith Gardiner declared an interest in agenda item 7.1 554-556 Roman Road, London E3 5ES (PA/13/00766) as she lived in the ward concerned and was a customer of the businesses on Roman Road.

### **3. UNRESTRICTED MINUTES**

The Committee **RESOLVED**

That the unrestricted minutes of the meeting of the Committee held on 19<sup>th</sup> June 2013 be agreed as a correct record and signed by the Chair SUBJECT to the following amendment:

After first paragraph on page 14 (Item 9.4 86 Brick Lane) add: Mr Harrington explained that Transport and Highways maintain their long term interest in an improved building line that does not project into the public highway.

### **4. RECOMMENDATIONS**

The Committee **RESOLVED** that:

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

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

The Committee noted the procedure for hearing objections, together with details of persons who had registered to speak at the meeting.

### **6. DEFERRED ITEMS**

#### **6.1 Site At Bow Wharf Adjoining Regents Canal And Old Ford Road, Old Ford Road, London (PA/11/03371 - 3372)**

The Committee considered the scheme regarding the site at Bow Wharf Adjoining Regents Canal and Old Ford Road, Old Ford Road, London (PA/11/03371 - 3373).

Amy Thompson (Planning Officer) presented the detailed proposal for planning permission and conservation area consent. The Committee were reminded that the application had previously been considered by the Committee on three occasions – at the 11<sup>th</sup> April 2013 meeting where Members were minded to refuse the scheme; on 15<sup>th</sup> May 2013 where the Committee deferred the decision again to explore the possibility of ring fencing the s106 agreement to the Bow West ward; and then again on 19<sup>th</sup> June 2013 as a new item (due to a change in membership at Annual Council) where Members were minded to refuse the application due to a number of concerns as set out below:

- Impact on the heritage aspects of the site with emphasis on the height of the proposal.
- Overdevelopment of the site due to the proposed density and lack of s016 contributions.
- .Lack of affordable housing with regard to the 35% target in policy.

Officers had since considered the reasons and had drafted suggested reasons for refusal. Officers had added a fourth reason regarding the lack of a legal agreement for financial contributions. Officers had also drafted a reason for refusing the Conservation Area consent as it would be inappropriate to demolish the building without the planning permission.

Officers gave their opinion on their strength of the reasons on planning grounds. It was considered that reason one may reasonable be defended at appeal. However, reasons two and three were weak given the policies in the London Plan that supported intensity of use compatible with the local context. The scheme also showed no symptoms of overdevelopment. The scheme was also delivering the maximum level of s106 and affordable housing that could reasonable be secured based on independent viability testing.

The Officers recommendation remained to grant the scheme. However, should Members be minded to refuse the scheme, Officers would seek to defend any appeal.

On a vote of 3 in favour of the refusal, 0 against and 1 abstention, the Committee RESOLVED:

That Planning Permission and Conservation Area Consent (PA/11/03371 - 3372) at Site at Bow Wharf adjoining Regents Canal and Old Ford Road, Old Ford Road, London be **REFUSED** for the demolition of existing buildings to facilitate the redevelopment of the site to provide three buildings ranging in height from 3 - 6 storeys to provide 34 residential units comprising 10 x 1 bedroom, 15 x 2 bedroom, 4 x 3 bedroom and 5 x 4 bedroom houses, 74.8 square metres of commercial floor space to be used as either Use Class A1, A2, A3,B1 or D1, including provision of one accessible parking space, cycle parking, public and private amenity space and associated works for the following reasons as set out in paragraphs 5 of the update report:

Full Planning Permission.

- The proposal would represent an unacceptable form of development with regard to design, appearance, height, bulk, scale and massing which would fail to preserve or enhance the open character and appearance of this part of the Regents Canal Conservation Area. As such, the proposal would be contrary to strategic policy SP10 of the adopted Core Strategy (2010), policies DM25 and DM27 of the adopted Managing Development Document (2013), the National Planning Policy Framework and the guidance contained within the Regents Canal Conservation Area Appraisal. These policies seek to ensure development preserves or enhances the character and appearance of the Regents Canal Conservation Area and that development takes account of local context.
- The proposal would fail to accord with table 3.2 of policy 3.4 of the London Plan (2011), and would therefore result in the overdevelopment of the subject site, without securing appropriate levels of financial contributions, including health contribution, to mitigate against the impacts of such density. The proposal is therefore contrary to the adopted Planning Obligations SPD (2012), policy SP13 of the Core Strategy (2010) and the National Planning Policy Framework, which seek to ensure that the impacts of development are mitigated through planning obligations.
- The proposal fails to secure a minimum of 35% affordable housing, and is therefore contrary to policies SP02(3a) of the Core Strategy 2010 and DM3 of the Managing Development Document (2013), which seek the delivery of 35% - 50% affordable housing in major developments.
- No planning obligations in the form of financial contributions have been secured to mitigate the impacts of the development. As a result, the proposal fails to meet the requirements of policy SP13 of the adopted Core Strategy (2010) and the Planning Obligations Supplementary Planning Document (2012), which seek to agree planning obligations between the Local Planning Authority and developers to mitigate, compensate and prescribe matters relating to the development.

Conservation Area Consent

- In the absence of an approved planning permission for the re-development of the site, the demolition of the existing buildings would leave an undeveloped site which would represent a blight on the character and appearance of the Regents Canal Conservation Area, contrary to strategic policy SP10 of the adopted Core Strategy (2012), policy DM27 of the adopted Managing Development Document (2013), the National Planning Policy Framework and the guidance within the Regents Canal Conservation Area Appraisal. These policies seek to ensure development preserves or enhances the character and appearance of the Regents Canal Conservation Area.

The Members that voted on the item were Councillors Helal Abbas, Anwar Khan, Judith Gardiner and Gulam Robbani. Councillors Kosru Uddin or Peter Golds could not vote on this item as they had not been present at the 19<sup>th</sup> June 2013 Committee meeting when it was initially considered.

## 6.2 11 Solebay Street, London E1 4PW (PA/13/00444)

The Committee considered the scheme regarding 11 Solebay Street, London E1 4PW for change of use at the site for a new primary school.

Jane Jin (Planning Officer) presented the report. It was noted that the application was initially considered at the previous 19<sup>th</sup> June 2013 meeting of the Committee where Members were minded to refuse the scheme due to concerns over health and safety matters, congestion and noise from the roof top play space. Officers had since drafted suggested reasons for refusal as set out in the report together with an assessment of the strength of these reasons on planning grounds. Officers went through the reasons in turn at the meeting as summarised below:

- Health and safety issues. Officers confirmed the steps to safeguard the safety of the pupils in view of the nearby industrial units. It was considered that the proposed holding areas for pupils and parents would minimise the impact. The pupils leaving the school would also be supervised to manage congestion on the foot paths. Officers were satisfied with these measures. However considered that, due to the lack of traditional play ground space for pupils to congregate, the reason could be defended on appeal.
- Noise from the roof top play space. Restrictions would be imposed on the roof top play space restricting its use after hours. Therefore it was not considered that the noise levels would have an undue impact on neighbouring properties.
- Congestion. It was expected that only 15% of pupils would travel to the school by private transport and the school had an adequate travel plan. The school was also committed to educating children on highway safety. Therefore, overall it was considered that the measures would effectively minimise congestion around the school

There had been no changes in policy since the previous 19<sup>th</sup> June 2013 meeting of the Committee. Therefore, the Officer recommendation remained to grant.

On a vote of 2 in favour of refusal and 0 against, and 1 abstention the Committee **RESOLVED**:

That planning permission (PA/13/00444) at 11 Solebay Street, London E1 4PW be **REFUSED** for change of use from office/warehouse use (Use Class B1/B8) to a two form entry primary school (Use Class D1) involving minor alterations to infill existing parking and service bays and a roof-top extension

providing additional teaching and external play space for the following reasons set out in paragraph 3.1 of the update report:

- The proposed location of the school is likely to create health and safety issues due to surrounding light industrial activities and the associated vehicle movements and therefore would result in unsafe conditions for the users of the schools and the occupiers of the neighbouring buildings contrary to policies SP07, SP09 and SP10 of the Core Strategy 2010.
- The proposal is likely to create congestion to the local highway network which is associated with picking up and dropping off pupils and therefore it would be detrimental to the safety of the users of the highway and free flow of highway network. This is contrary to policies SP09 of the Core Strategy 2010.
- The proposal, by reasons of its play space provision in the open roof top space, is likely to create nuisance to the nearby occupiers is contrary to policy SP10 of the Core Strategy and policy DM25 of the Managing Development Document 2013.

The Members that voted on the item were Councillors Helal Abbas, Judith Gardiner and Gulam Robbani.

Councillor Anwar Khan could not vote on this item as he had not been present from the start of the item.

Councillors Kosru Uddin and Peter Golds could not vote on this item as they had not been present at the 19<sup>th</sup> June 2013 Committee meeting when it was initially considered.

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

### **7.1 554-556 Roman Road, London E3 5ES (PA/13/00766)**

The Committee considered the scheme regarding 554-556 Roman Road, London E3 5ES (PA/13/00766)

The Chair invited the registered speakers to address the Committee.

Councillor Marc Francis spoke in objection to the application. He stated that whilst local Councillors and residents supported the regeneration of Roman Road, any development needed to be right for the area. They were opposed to more pawnbrokers and fast food outlets there.

He considered that there was already an overconcentration of A3 outlets in the area with many opening in the last year and more planned. The assessment was inaccurate in terms of its statement that there were no other A3 uses in the block. There was a café at 566 and also in the Idea Store at



Gladstone Place. There was also the nearby café at the Time Capsule and Tyson's Kitchen takeaway amongst other A3 uses. He requested that the Committee limit such uses and refuse the application.

Antony Tagliamonti spoke in support as the applicant. He reported that the applicant could gain permission for the plans under permitted development rights for two years. However, they wished that it be granted for a longer length of time. It was anticipated that the shop would be operated by a local company. There was evidence that the addition of a café to an area would promote regeneration as shown elsewhere and by the assessment in the application.

Iyabo Johnson (Planning Officer) gave a detailed presentation of the proposal. The proposal sought to convert the existing A1 use to a combined A1/A3 use. The unit was currently vacant and fell within the Roman Road Market Conservation Area.

A number of concerns had been raised in response to the local consultation. The issues concerned the overprovision of cafes on Roman Road and noise disturbance amongst other issues.

The proposal was acceptable in terms of land use. There would be no wholesale loss of an A1 unit. The overall provision of such uses in the area would continue to be in excess of the policy target of 50%. It was also considered that the addition of the A3 use would not result in overconcentration given there were at least two non A3, A4 and A5 units between it and the nearest such units as required in policy. There were conditions to protect amenity. This included restrictions on the hours of use, delivery hours, music and an outright ban on cooking on the premises.

Overall, Officers considered that the proposal was acceptable and should be granted.

In response to Members, it was confirmed that whilst a condition would be imposed to prevent the preparation of hot foods, heating up such snacks as sandwiches would be allowed. The waste and recycling bins would remain at the rear of the store and it was considered that these plans were acceptable. Highways had not raised any objections about the scheme. Responsibility for dealing with waste on the highway rested with Community, Localities and Culture. The service had not raised any concerns about increased litter from the proposal or litter problems generally on Roman Road.

On a vote of 4 in favour and 1 against, the Committee **RESOLVED**:

1. That planning permission (PA/13/00766) at 554-556 Roman Road, London E3 5ES be **GRANTED** for change of use from a grocery store (A1 use), to a mixed class coffee shop (A1/A3 use) and associated alterations to shop front subject to:

2. That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the matters set out in the report.

Councillor Peter Golds could not vote on this item as he had not been present from the start of the item.

**8. OTHER PLANNING MATTERS**

Nil items.

The meeting ended at 6.30 p.m.

Chair, Councillor Helal Abbas  
Development Committee

# Agenda Item 5

## DEVELOPMENT COMMITTEE STRATEGIC DEVELOPMENT COMMITTEE

### PROCEDURES FOR HEARING OBJECTIONS AT COMMITTEE MEETINGS

- 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 sent a letter that notifies them that the application will be considered by Committee. The letter will explain the provisions regarding public speaking. The letter will be posted by 1<sup>st</sup> class post at least five clear working days prior to the meeting.
- 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.
- 6.3 All requests from members of the public to address a Committee in support of, or objection to, a particular application must be made to the Committee Clerk by 4:00pm one clear working day prior to the day of the meeting. It is recommended that email or telephone is used for this purpose. This communication must provide the name and contact details of the intended speaker and whether they wish to speak in support of or in objection to the application. Requests to address a Committee will not be accepted prior to the publication of the agenda.
- 6.4 Any Committee or non-Committee Member who wishes to address the Committee on an item on the agenda shall also give notice of their intention to speak in support of or in objection to the application, to the Committee Clerk by no later than 4:00pm one clear working day prior to the day of the meeting.
- 6.5 For objectors, the allocation of slots will be on a first come, first served basis.
- 6.6 For supporters, the allocation of slots will be at the discretion of the applicant.
- 6.7 After 4:00pm one clear working day prior to the day of the meeting the Committee Clerk will advise the applicant of the number of objectors wishing to speak and the length of his/her speaking slot. This slot can be used for supporters or other persons that the applicant wishes to present the application to the Committee.
- 6.8 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 Members registered to speak, then the applicant or their supporter(s) will not be expected to address the Committee.
- 6.9 Where a planning application has been recommended for refusal by officers and the applicant or his/her supporter has requested to speak but there are no objectors or Members registered to speak, then the applicant and his/her supporter(s) can address the Committee for up to three minutes.
- 6.10 The order of public speaking shall be as stated in Rule 5.3.
- 6.11 Public speaking shall comprise verbal presentation only. The distribution of additional material or information to Members of the Committee is not permitted.
- 6.12 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.
- 6.13 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.
- 6.14 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.
- 6.15 Speakers and other members of the public may leave the meeting after the item in which they are interested has been determined.

- 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.
- For each planning application where one or more Members have registered to speak in objection to the application, the applicant or his/her supporter can address the Committee for an additional three minutes.

# Agenda Item 7

<b>Committee:</b> Strategic Development	<b>Date:</b> 14 <sup>th</sup> August 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 7
<b>Report of:</b> Corporate Director Development and Renewal		<b>Title:</b> Planning Applications for Decision	
<b>Originating Officer:</b> Owen Whalley		<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. Although the reports are ordered by application number, the Chair may reorder the agenda on the night. If you wish to be present for a particular application you need to be at the meeting from the beginning.
- 1.2 The following information and advice applies to all those reports.

## 2. FURTHER INFORMATION

- 2.1 Members are informed that all letters of representation and petitions received in relation to the items on this part of the agenda 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 London Plan 2011
  - the Tower Hamlets Core Strategy Development Plan Document 2025 adopted September 2010
  - the Managing Development Document adopted April 2013
- 3.2 Other material policy documents include the Council's Community Plan, supplementary planning documents, government planning policy set out in the National Planning Policy Statement and planning guidance notes and circulars.
- 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.

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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:  
Application, plans, adopted UDP, Interim  
Planning Guidance and London Plan

Tick if copy supplied for register:

Name and telephone no. of holder:  
Eileen McGrath (020) 7364 5321

- 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 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 The Equality Act 2010 provides that in exercising its functions (which includes the functions exercised by the Council as Local Planning Authority), that the Council as a public authority shall amongst other duties have due regard to the need to-
- (a) eliminate discrimination, harassment, victimisation and any other conduct that is prohibited under the Act;
  - (b) advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it;
  - (c) foster good relations between persons who share a relevant protected characteristic and persons who do not share it.
- 3.7 The protected characteristics set out in the Equality Act are: age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation. The Equality Act acknowledges that compliance with the duties set out may involve treating some persons more favourably than others, but that this does not permit conduct that would otherwise be prohibited under the Act.
- 3.8 In accordance with Article 31 of the Development Management Procedure Order 2010, 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.

#### **4. PUBLIC SPEAKING**

- 4.1 The Council's constitution allows for public speaking on these items in accordance with the rules set out in the constitution and the Committee's procedures. These are set out at Agenda Item 5.

#### **5. RECOMMENDATION**

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

# Agenda Item 7.1

<b>Committee:</b> Development	<b>Date:</b> 14 August 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal  <b>Case Officer:</b> Shahara Ali-Hempstead	<b>Title:</b> Town Planning Application, Listed Building and Conservation Area Consent  <b>Ref No: :</b> PA/12/02576, PA/12/02577 and PA/12/02578  <b>Ward:</b> Bow West
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## 1. APPLICATION DETAILS

**Location:** Central Foundation Girls School Lower School, College Terrace, London, E3 5AN

**Existing Use:** Central Foundation Girls School (D1 Use)

**Proposal:** PA/12/0577 Full planning permission for a change of use of existing sixth form school (Use Class D1) to provide 36 residential dwellings (Use Class C3) comprising 10 x 1 bedroom, 13 x 2 bedroom, 12 x 3 bedroom and 1 x 4 bedroom units with communal amenity space. Part demolition and replacement of existing infill building and refurbishment of Grade II Listed Building.

PA/12/0576 Conservation Area Consent for Part demolition and replacement of existing infill building.

PA/12/0578 Listed Building Consent for change of use of existing sixth form school (Use Class D1) to provide 36 residential dwellings (Use Class C3) comprising 10 x 1 bedroom, 13 x 2 bedroom, 12 x 3 bedroom and 1 x 4 bedroom units with communal amenity space. Part demolition and replacement of existing infill building and refurbishment of Grade II Listed Building.

**Drawing Nos:** A1990 099 P3, A1990 100 P1, A1990 101 P1, A1990 102 P1, A1990 103 P1, A1990 104 P1,

A1990 120 P1, A1990 121 P1, A1990 122 P1, A1990 123 P1,

A1990 130 P1, A1990 131 P1, A1990 132 P2, A1990 133 P1, A1990 134 P1, A1990 135 P1,

A1990 140 P2, A1990 141 P2, A1990 142 P2, A1990 143 P2, A1990 144 P2,

A1990 150 P2, A1990 151 P2, A1990 152 P2, A1990 153 P2,

A1990 160 P2, A1990 161 P2, A1990 162 P2, A1990 163 P2, A1990 164 P2, A1990 165 P2,

A1990 201 P4, A1990 202 P10, A1990 203 P9  
A1990 204 P10, A1990 205 P9, A1990 250 P1

A1990 300 P6, A1990 301 P5, A1990 302 P6  
A1990 303 P4,

A1990 400 P5, A1990 401 P5, A1990 402 P4  
A1990 403 P7, A1990 404 P5, A1990 405 P4.

**Documents:**

- Proposed preliminary area schedule ref A1990 7105 P8
- Design and Access Statement, Reference:A1990CD 3-1-4p+d, dated 5 September 2012
- Planning and Impact Statement, dated September 2012, prepared by Cluttons Planning and Regeneration.
- Design and Access Statement, September 2012, prepared by Assael Architects
- Planning and Impact Statement, September 2012, Prepared by Cluttons LLP
- Heritage Statement, September 2012, prepared by KM Heritage
- Summary schedule of works, September 2012, prepared by Assael Architects
- Supplementary Planning Information, 27 March 2012 prepared by Assael Architects
- Sustainability and Energy Statement, September 2012, prepared by SRE
- Affordable Housing Statement Viability Assessment, September 2012, prepared by Cluttons LLP

**Applicant:** Central Foundation Schools of London  
**Ownership:** Central Foundation Schools of London  
**Historic Building:** Grade II Listed  
**Conservation Area:** Tredegar Square

**1. Report Context**

- 1.1 Previous applications to redevelop this site were submitted in June 2011. The applications were refused in September 2011 for reasons stated in paragraph 4.7 -4.9.
- 1.2 The applicant has made significant amendments to the current proposal in an effort to



address the reasons for refusal. These are set out in detail in paragraph 8.14 – 8.125.

## **2. EXECUTIVE SUMMARY**

- 2.1 The local planning authority has considered the particular circumstances of this application against the Council's approved planning policies contained in the Core Strategy (2010), the Council's Managing Development Document (April 2013), adopted supplementary planning guidance and documents, the London Plan 2011 and the National Planning Policy Framework and has found that:
- 2.2 On balance, the proposed redevelopment of the site which includes the loss of educational floor space to provide a residential led development is considered acceptable. Given, the existing education facility has been re-provided; its loss is considered acceptable in this instance, as such, the proposal is acceptable.
- 2.3 The proposal provides an acceptable amount of affordable and social rented housing and mix of units, in light of the viability of the scheme, as such, the proposal is acceptable.
- 2.4 On balance the proposal provides acceptable residential space standards and layout. As such, the scheme is acceptable.
- 2.5 On balance the quantity and quality of housing amenity space, communal space and child play space are acceptable.
- 2.6 The design, appearance, height, scale, bulk, massing and layout of the proposal are considered to be acceptable. The proposed design and appearance has been developed taking account the Grade II Listing of the site and the setting of the Tredegar Square Conservation Area. Furthermore, the proposed bulk, scale and massing is in keeping with the scale of development within the local and wider area. As such, the proposal is acceptable.
- 2.7 The proposal would not give rise to any unduly detrimental impacts in terms of privacy, overlooking, outlook, sense of enclosure, sunlight and daylight, and noise upon the surrounding residents, as such, the proposal is acceptable.
- 2.8 Transport matters, including parking, access and servicing, are acceptable.
- 2.9 Environmental sustainability matters, including energy, are acceptable.
- 2.10 Contributions have been secured towards the provision of affordable housing, education, community facilities, health, sustainable transport, employment and public realm improvements in accordance with national, regional and Councils policies.

### **Listed Building Consent Application – PA/12/02578**

- 2.11 Subject to conditions the proposed internal and external works are considered to preserve the character and appearance of the Grade II Listed Building and would not cause significant harm to the architectural heritage. The design, appearance and use of materials would be acceptable and would not harm the significance of the heritage assets in accordance with National Planning Policy Framework, strategic policy SP10 of the Core Strategy 2010 and policies DM24 and DM27 of the Managing Development Document (April 2013). These policies seek to ensure appropriate design within the Borough which respects the local context and preserves the character and appearance of local conservation areas and the setting of listed buildings.

2.12 The proposed demolition works and proposed redevelopment is considered to preserve the character and appearance of the Tredegar Square Conservation Area and would not cause significant harm to the Grade II Listed Building. The design, appearance and position of the proposed development would be acceptable and would not harm the significance of the heritage assets in accordance with National Planning Policy Framework, strategic policy SP10 of the Core Strategy 2010 and policies DM24 and DM27 of the Managing Development Document (April 2013). These policies seek to ensure appropriate design within the Borough which respects the local context and preserves the character and appearance of local conservation areas and the setting of listed buildings.

#### **Conservation Area Application – PA/12/02576**

2.13 The proposed demolition works and proposed redevelopment is considered to preserve the character and appearance of the Tredegar Square Conservation Area and would not cause significant harm to the Grade II Listed Building. The design, appearance and position of the proposed development would be acceptable and would not harm the significance of the heritage assets in accordance with National Planning Policy Framework, strategic policy SP10 of the Core Strategy 2010 and policies DM24 and DM27 of the Managing Development - Document (April 2013). These policies seek to ensure appropriate design within the Borough which respects the local context and preserves the character and appearance of local conservation areas and the setting of listed buildings.

### **3. RECOMMENDATION**

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

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

#### **Financial Contributions**

- a) A contribution **£118,844** towards education.
- b) A contribution of **£8,791.88** towards employment, skills, training and enterprise initiatives.
- c) A contribution of **£46,475** towards community facilities.
- d) A contribution of **£51,864** towards Health.
- e) A contribution of **£183,622.32** towards streetscene improvements.
- f) A contribution of **£1,170** toward sustainable transport.
- g) Monitoring fee **(2%)£8,215.34**.

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

- h) **35%** affordable housing by habitable room comprising 3 affordable rent, 5 social target rented residential units and 4 shared ownership units in Buildings D, E and F.
- i) Development to be secured as car-free.
- j) Access to employment initiatives for construction through 20% of non-technical total construction jobs to be advertised through the Council's job brokerage service.
- k) 20% local procurement
- l) Code of Construction Practice
- m) Any other obligation(s) considered necessary by the Corporate Director Development and Renewal.

3.2 That the Corporate Director Development & Renewal is delegated power to negotiate the

legal agreement indicated above.

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

### **Conditions for Full Planning Permission – PA/12/02577**

#### **Compliance Conditions**

1. Time limit – Three Years.
2. Compliance with plans - Development in accordance with the approved schedule of drawings and documents.
3. Residential accommodation - compliance with Life Time Homes
4. 4 dwellings (10%) to be designed to be 'easily adaptable' to wheelchair housing;
5. Communal play space and child space accessible to all future residents of the development
6. Compliance with energy strategy.

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

7. Full details of hard and soft landscaping for the development as a whole to include planting and other measures to enhance biodiversity and high quality materials appropriate for the listed building and conservation area setting.
8. Full details of specification and samples of all facing materials.
9. Full details of specification, samples and detailed design and drawings at scale 1:20 of all proposed windows.
10. Detail of play space
11. Full details of specification of cycle stands and drawings at scale 1:20 of detailed layout. Stands to be Sheffield stands or similar.
12. Full details of refuse storage facility and drawings at scale 1:20 of detailed elevation and layout.
13. Construction Management Plan including details of use of water for transportation of materials and waste during demolition and construction phases.
14. S278 Highway Improvement Works to be submitted and approved
15. Contaminated land investigation
16. Code for Sustainable Homes for residential units.

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

17. Secured by Design Assessment.
18. Any other planning condition(s) considered necessary by the Corporate Director Development & Renewal

#### **Informatives**

1. Associated S106.
2. Associated Conservation Area Consent and Listed Building Consent.
3. Compliance with Environmental Health Legislation.
4. Compliance with Building Regulations.

### **Conditions for Listed Building Consent Application – PA/12/02578**

#### **Compliance Conditions**

1. Time limit – Three Years.

2. All works to match the existing in terms of materials and methods
3. New circular window to match existing

**Pre-Commencement Conditions**

4. Full detail of schedule of works
5. Full details of specification, samples and detailed design of all internal alterations
6. Retention of all historic features in situ and scheme of protection for the historic features during construction
7. Rooflights to be conservation rooflights set flush with the plain of the roof details to be provided
8. Details of any cleaning proposed and sample panels for approval.
9. Schedule of internal repairs for the written approval of the LPA to include proposed repair of the balcony brackets in the hall
10. A schedule of original doors and door furniture shall be prepared and proposals for the retention and reuse of these elements shall be submitted for the approval in writing of the Local Planning Authority
11. Schedule of changes to the doors and glazed screens in the main hall.
12. Full new joinery details where existing details are changing / being modified. e.g. glazed screens to the double height central hall
13. Details of repair of plasterwork
14. Full details of new mezzanine levels being inserted within Building B (gym) and Building C (dining hall), and connections with existing fabric
15. Schedule of external repairs for the written approval of the LPA.
16. Details of boiler flues and ventilation requirements on roofs
17. Full proposals for the new build element of the scheme - details to include external materials ie bricks, windows, roofing materials, details of new windows, including plan section elevation to include head and cill details
18. Full details of playground structures bike sheds / bin stores
19. Scheme for protection of trees / historic railings during construction

**Informatives for Listed Building Consent Application – PA/12/02578**

20. Any alterations required to meet building control requirements

**Conditions for Conservation Area Consent – PA/12/02576**

1. Time limit – Five Years.
2. No demolition works shall be carried out until a contract is in place for the redevelopment of the site.

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

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

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 is delegated power to refuse planning permission.

**4. PROPOSAL AND LOCATION DETAILS**

**Proposal**

4.1 The proposal is for the redevelopment of the existing sixth form college located at College Terrace. The proposed works include a part demolition of existing 'Building E' infill block and

replacement with new build residential building and the comprehensive internal refurbishment and conversion of the existing listed buildings to residential dwellings and associated landscaping works.

- 4.2 This would result in the creation of 36 residential dwellings comprising 10 x 1 bedroom, 13 x 2 bedroom, 12 x 3 bedroom and 1 x 4 bedroom units with communal amenity space.
- 4.3 The conservation area application seeks permission for a part demolition of the existing infill 'Building E'.

### **Site and Surroundings**

- 4.4 The application site is a rectangular site located within the Tredegar Square Conservation Area to the east of Grove Road measuring 0.44 hectares. The existing buildings form a continuous 'U' shape around a central courtyard, enclosed on the east and west wings surrounding a double-height hall at the northern end.
- 4.5 The buildings are Grade II Listed and have three frontages facing onto Lichfield Road to the north, College Terrace to the east and Morgan Street to the south. The western boundary faces onto the Holy Trinity Church (Ecclesiastical Grade C Statutory Listed Building).
- 4.6 The surrounding area is predominately residential in nature, with the Holy Trinity Church to the immediate west, and some small shops and public houses along Coburn and Lichfield Roads being the exception. Further to the east of the site, there are more educational buildings around Harley Grove and commercial buildings around Mile End Road.

### **Planning History**

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

PA/11/01503 A planning permission for the "*Redevelopment of existing sixth form college (Use Class D1) including demolition and replacement of existing infill extension, and extension, refurbishment and conversion of the existing buildings to provide 49 residential dwellings comprising (19 x 1 bedroom, 22 x 2 bedroom, 6 x 3 bedroom and 2 x 4 bedroom) with associated landscaping and servicing works*" was refused on 9th September 2011

PA/11/01504 A listed building consent for the "*Redevelopment of existing sixth form college (Use Class D1) including demolition and replacement of existing infill extension, and extension, refurbishment and conversion of the existing buildings to provide 49 residential dwellings comprising (19 x 1 bedroom, 22 x 2 bedroom, 6 x 3 bedroom and 2 x 4 bedroom) with associated landscaping and servicing works*" was refused on 9th September 2011

- 4.8 Reason for refusal PA/11/01503

1. *The proposal provides 0% affordable housing which is contrary to policy 3.11, 3.12 and 3.13 of the London Plan (2011) and SP02 (3) of the Core Strategy (2010) which require 35% - 50% affordable homes on sites providing 10 new residential units or more subject to viability. The application was accompanied by a Viability Assessment which was independently reviewed. The Viability Assessment failed to satisfy the viability test and the proposed development would be contrary to regional and local policy and furthermore, the lack of any affordable housing and a suitable mix of*

*tenures within the development would fail to promote mixed and balanced communities within the borough.*

- 2. The proposal would result in the provision of 16.32% family housing (3-5 bedrooms) across the scheme. This would be contrary to Policy 3.8 of the London Plan (2011) and SP02 (5) of the Core Strategy (2010). These policies seek to ensure a variety of housing types and sizes including a substantial proportion of family housing in order to promote mixed and balanced communities and to meet local need as demonstrated in the Strategic Housing Market and Needs Assessment (2009) which forms part of the Core Strategy evidence base.*
- 3. The proposed modern additions to the listed building including the roof top additions and infill 'Building E' would not be acceptable in respect of design, bulk, scale and massing and would result in incongruous additions which would fail to preserve or enhance the Tredegar Square Conservation Area and would adversely affect the setting of the group of Grade II listed buildings. This would be contrary to PPS5: Planning and the Historic Environment, SP10 (3 & 4) of the Core Strategy (2010), saved policy DEV1, DEV37 and DEV30 of the Unitary Development Plan (1998) and DEV2, CON1 and CON2 of the Interim Planning Guidance (2007).*
- 4. The proposed residential accommodation would not provide a satisfactory internal environment for residents by merit of that fact that 21 of the 49 units fail to meet the minimum space standards set out in table 3.3 of Policy 3.5 of the London Plan (2011). This would result in substandard standard of amenity for future residents which would be contrary to SP10 (4) of the Core Strategy (2010), saved policy DEV2 of the Unitary Development Plan (1998) and DEV1 of the Interim Planning Guidance (2007).*
- 5. Insufficient information was provided in order to allow the assessment of the impact of the proposal in respect of Energy and Sustainability. As such, the development is not in compliance with the 'Energy Hierarchy' as set out in policies 5.1-5.9 of the London Plan (2011), SP11 of the Core Strategy (2011) and policy HE1 of PPS5: Planning and the Historic Environment. These policies seek to ensure development uses less energy, supplies energy efficiently and use renewable energy.*
- 6. The development fails to provide sufficient on-site child play space specifically for (0-4 year olds) for future residents. This is contrary to policy 3.6 of the London Plan (2011) and the London Plan SPD Providing for Children and Young Peoples Play and Informal Recreation which seek to ensure that new housing provides provision for play and informal recreation on site.*
- 7. The proposal by reason of its lack of any planning obligations to mitigate the impact of the proposed development and secure local environmental improvements would result in an adverse effect on the quality of the surrounding environment and be detrimental to the amenities of the local residents and visitors to the area. This would be contrary to SP13 of the Core Strategy (2010) and saved policies DEV1, DEV2 and DEV4 of the Unitary Development Plan (1998).*
- 8. Insufficient information has been provided to show adequate detailed provision for the storage and recycling of waste for future residents. Given the constraints of the fabric of the listed building and the scale of the development it is considered the impact of insufficient refuse and recycling store would have an adverse impact on the amenity of future residents and the wider area. Therefore, the development fails to accord with the requirements of saved policies DEV1, DEV2, DEV55 and S7 of the adopted Unitary Development Plan 1998 - in particular DEV55 which seek to ensure*

*development makes provision for the storage of waste to protect the amenities of neighbouring residential occupiers.*

#### 4.9 Reason for refusal PA/11/01504

1. *The proposed alterations to the listed building would affect the historic fabric and special architectural interest of the listed building by merit of both the internal and external alterations and additions. The proposed alterations to the main hall, the roof top addition, the alterations to the panelled dining room and gymnasium, the loss of 'Building E' and its proposed replacement fail to preserve the historic fabric and special architectural interest of the listed building and would fundamentally alter the external elevations and the internal layout. This would be contrary to PPS5: Planning and the Historic Environment, SP10 (3) of the Core Strategy (2010), saved policy DEV37 of the adopted Unitary Development Plan (1998) and CON1 of the Interim Planning Guidance (2007). These policies seek to protect the special historic interest of listed buildings.*

## 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:

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

- 3.1 Ensuring equal life chances for all
- 3.2 Improving health and addressing health inequalities
- 3.3 Increasing housing supply
- 3.4 Optimising housing potential
- 3.5 Quality and design of housing developments
- 3.6 Children and young people's play and informal recreation facilities
- 3.7 Large residential developments
- 3.8 Housing choice
- 3.9 Mixed and balanced communities
- 3.10 Definition of affordable housing
- 3.11 Affordable housing targets
- 3.12 Negotiating affordable housing on individual private and mixed use schemes
- 3.13 Affordable housing thresholds
- 5.1 Climate change mitigation
- 5.2 Minimising carbon dioxide emissions
- 5.3 Sustainable design and construction
- 5.5 Decentralised energy network
- 5.7 Renewable energy
- 5.8 Innovative energy technologies
- 5.9 Overheating and cooling
- 5.10 Urban greening
- 5.13 Sustainable drainage
- 5.14 Water quality and wastewater infrastructure
- 5.15 Water use and supplies
- 5.16 Waste self-sufficiency
- 5.17 Waste capacity
- 5.18 Construction, excavation and demolition waste
- 5.21 Contaminated land

- 6.1 Strategic approach
- 6.3 Assessing effects of development on transport capacity
- 6.4 Enhancing London's transport connectivity
- 6.5 Funding Crossrail and other strategically important transport infrastructure
- 6.7 Better streets and surface transport
- 6.9 Cycling
- 6.10 Walking
- 6.11 Smoothing traffic flow and tackling congestion
- 6.12 Road network capacity
- 6.13 Parking
- 7.1 Building London's neighbourhoods and communities
- 7.2 An inclusive environment
- 7.3 Designing out crime
- 7.4 Local character
- 7.5 Public realm
- 7.6 Architecture
- 7.7 Location and design of tall and large buildings
- 7.8 Heritage assets and archaeology
- 7.9 Heritage-led regeneration
- 7.13 Safety, security and resilience to emergency
- 7.14 Improving air quality
- 7.15 Reducing noise and enhancing soundscapes
- 7.18 Protecting local open space and addressing deficiency
- 7.19 Biodiversity and access to nature
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy

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

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

### 5.4 Managing Development Document (April 2013) (MDD)

- DM3 Delivery homes
- DM4 Housing standards and amenity space
- DM9 Improving air quality
- DM10 Delivering open space
- DM11 Living buildings and biodiversity
- DM13 Sustainable drainage
- DM14 Managing waste
- DM20 Supporting a sustainable transport network
- DM21 Sustainable transportation of freight
- DM22 Parking
- DM23 Streets and the public realm
- DM24 Place-sensitive design
- DM25 Amenity
- DM27 Heritage and the built environment



DM29      Achieving a zero carbon borough and addressing climate change

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

LBTH Planning Obligations Supplementary Planning Document (2012) (PO SPD)  
Tredegar Square Conservation Area Appraisal

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

National Planning Policy Framework (2012) (NPPF)

## 5.7 **Community Plan**

The following Community Plan objectives relate to the application:

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

## 6. **CONSULTATION RESPONSE**

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

6.2 The following were consulted regarding the application:

### **The Twentieth Century Society(Statutory Consultee)**

6.3 To date no comments have been received.

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

6.5 *You are hereby authorised to determine the application for listed building consent referred to above as you think fit. In so doing English Heritage would stress that it is not expressing any views on the merits of the proposals which are the subject of the application.*

6.6 On the 13th November 2012, a letter of authorisation was received from the Secretary of State confirming that information given has been considered and the secretary of State does not require the application to be referred to him.

### **London Fire and Emergency Planning Authority (Statutory Consultee)**

6.7 *With regards to the Town & Country Planning, the Fire Authority needs to consider Access and Water Supplies, which is covered by Approved Document B (B5, Section 15, 16 & 17) and British Standard 9990. The documentation provided has been researched, and no information directly related to Fire Service Access & Water Supplies has been provided. As such I am unable to make meaningful observations.*

6.8 *Notwithstanding the above statement the documentation provided would indicate that, if existing water supplies are maintained; the provision of water supplies for the use by the fire service should be adequate. Moreover the plan drawings would indicate that fire service access would not be problematic. These specific matters will be further discussed at the building control consultation stage.*

**Thames Water (Statutory Consultee)**

6.9 To date no comments have been received.

**The Society for the Protection of Ancient Buildings (Statutory Consultee)**

6.10 To date no comments have been received.

**The Victorian Society (Statutory Consultee)**

6.11 To date no comments have been received.

**The Spitalfields Society**

6.12 To date no comments have been received.

**Tredegar Road Estate Steering Group**

6.13 To date no comments have been received.

**Mile End Old Town Residents Association**

6.14 To date no comments have been received.

**Mile End Residents Association**

6.15 To date no comments have been received.

**Tower Hamlets Primary Care Trust**

6.16 Financial contribution of £51,864 is required for this development to secure appropriate capacity within local healthcare facilities.

6.17 (**Officer comment:** This required financial contribution has been agreed and it is recommended that it is secured through a S106 agreement).

**LBTH Waste Management**

6.18 The locations of the bin areas are acceptable and within stipulated 'drag' distance. Ensure that there are dropped kerbs in place and the collection point is free of parking spaces and any hindrances that may hinder collections.

6.19 [**Officer Comment:** A waste and recycling management plan for residential users would be controlled via condition. This would also ensure sufficient capacity and waste storage is provided.]

**LBTH Communities Localities and Culture (CLC)**

6.20 Appendix 1 of the Planning Obligations SPD outlines the Occupancy Rates and Yields for new development.

6.21 The following is based on a population yield of 78 and the contribution calculations outlined in the Planning Obligations SPD (Section 5).

#### Idea Stores, Libraries and Archives:

- 6.22 The Planning Obligations SPD requires a contribution of £126 per resident towards Idea Stores, Libraries and Archives. Details of the calculation and justification for this are outlined in the Idea Stores, Libraries and Archives section of the SPD (see page 24 - 26).

#### Leisure Facilities:

- 6.23 Based upon the population yield and using the Sports England Sport Facilities calculator referred to in the Planning Obligations SPD. Details of the calculation and justification for this are outlined in the Leisure Facilities section of the SPD (see page 27 - 29).

#### Open Space:

- 6.24 Based upon the population yield the total amount of publicly accessible Open Space required on-site is 1,116sqm. Information submitted by the developer indicated that no publicly accessible areas are provided within the site boundary (red line boundary). Details of the calculation and justification for this are outlined in the Public Realm section of the SPD (see page 38 - 39).
- 6.25 [**Officer Comment:** Please refer to paragraph 8.133 – 8.142 of this report for a full discussion of S106 contributions.]

#### **LBTH Education Development Team**

- 6.26 To date no comments have been received.

#### **LBTH Environmental Health – Contaminated Land**

- 6.27 I note from our records that the site and surrounding area have been subjected to former industrial uses, which have the potential to contaminate the area. I understand ground works and soft landscaping are proposed and therefore a potential pathway for contaminants may exist and will need further characterisation to determine associated risks.
- 6.28 Please condition this application to ensure the developer carries out a site investigation to investigate and identify potential contamination.
- 6.29 [Officer Comment: An appropriately worded condition would be imposed on any permission]

#### **LBTH Housing Development and Private Sector**

- 6.30 The application has been revised due to findings of the recent independent viability toolkit assessment report.
- 6.31 The application is now providing 35% affordable housing. This has been robustly tested through a viability appraisal.
- 6.32 The tenure split within the affordable 69:31 in favour of rented. This split fits broadly with the Council's target of 70:30, than the target set by the London Plan of 60:40.
- 6.33 Within the affordable rented units there is a 30% provision of one bed unit against our policy target of 30%, 13% of two bed units, against our policy target of 25%, 63% of three bed units against our policy target of 30%, There are no four bed units within this tenure type against our policy requirement of 15%. Overall our policy requires 45% of family units, this scheme

is providing 63%. On balance this is deemed acceptable.

- 6.34 Within the intermediate tenure there is a 25% of one bed units against our policy target of 25%, 50% of two bed units against our policy target of 50% and a provision of 25% three beds against our policy requirement of 25%.
- 6.39 **[Officer Comment:** The applicant has confirmed that the rent levels would be in line with the parameters set by POD for that area. Following findings of the recent independent viability toolkit assessment report, the applicant has agreed to provide 34.8% affordable housing by habitable rooms. Once appropriately rounded and given part units cannot be provided this is compliant with the 35% set out within policy.]

## **LBTH Transportation and Highways**

### Parking

- 6.40 The subject site is located in an area of excellent public transport accessibility (PTAL 5/6a) therefore, as already agreed with the applicant, the development shall be subject to a section 106 car free agreement for the residential units to promote sustainable modes of transportation and prevent future occupiers from applying for on-street parking permit. The proposed development is likely to reduce the net impact on highways, especially during the morning and afternoon peak.
- 6.41 The applicant has not given details of how disabled people can park accessibly and conveniently. Highways require at least one disabled on street space and a s278 requirement should be in place to provide this.

### Cycle Parking

- 6.42 The London Plan and LBTH policy states that a minimum of 1 cycle space is to be provided per 1 or 2 bed residential units and 2 spaces per 3 or more bed unit. This equates to a total of 49 cycle spaces (25 standard Sheffield stands) for this development. The applicant will need to amend the proposal and provide a specification sheet for the proposed type of stand. It should be noted that LBTH's preferred type is the standard Sheffield stand. The cycle stores must be retained and maintained for this purpose alone.
- 6.43 **[Officer Comment:** The application site is an existing Grade II listed building; the applicant is not proposing any car parking within the scheme. It is noted that the surrounding highway has existing residents parking bays which can be utilised for disabled visitors. Full details of cycle storage facility will be secured via condition. The applicant would be advised via an informative of the need to use a Sheffield stand or similar.]

### Servicing Arrangements

- 6.44 The applicant has made provision for on-site servicing with a driveway leading to the basement level from the north-west corner of the site, where one of three refuse storage area is located. The applicant has not given details of proposed waste collection methods.

### Refuse Arrangements

- 6.45 Comments regarding the suitability of the proposals for the storage and collection of waste should be obtained from the Waste Management team.
- 6.46 **[Officer Comment:** Colleagues in Waste management have not raised an objection to the proposed bin storage. Service arrangement will be secured via condition.]

### Conclusions

- 6.47 In principle Highways have no objections, if planning permission is granted, please include

the following:

- The Applicant is to enter into a S106 car and permit free agreement.
- A Servicing Management Plan is to be secured via condition.
- A Construction Management Plan is to be secured via condition.
- A condition requiring a S278 agreement should be included.
- Footway and surrounding highway not be blocked during construction.
- All construction vehicles to comply with on-street restrictions.
- 49 cycle spaces (25 standard Sheffield stands) to be provided within the development

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

#### **LBTH Energy and efficiency team**

6.49 The Sustainability and Energy Statement (dated 07/09/2012), follows the Mayor's energy hierarchy as detailed above. The development would make use of energy efficiency and passive measures to reduce energy demand (Be Lean). The integration of a communal heating scheme incorporating a Combined Heat and Power (CHP) engine as the lead source of hotwater and space heating requirements in accordance with policy 5.6 of the London Plan will also reduce energy demand and associated CO2 emissions (Be Clean).

6.50 The current proposals for delivering the space heating and hotwater are considered acceptable; however an appropriately worded condition should be applied to any permission to ensure development is supplied by the CHP (2 x 5.5kWe) following completion and prior to occupation.

6.51 Whilst the proposed development is not meeting Core Strategy Policy SP11, the Sustainable Development Team support the application as the applicant has demonstrated that the design has followed the energy hierarchy and sought to integrate renewable energy technologies where feasible.

6.52 The total anticipated CO2 savings from the development are 35%, through a combination of energy efficiency measures, a CHP power system and renewable energy technologies. The CO2 savings are in accordance with policy DM29 and therefore are supported by the sustainable development team and it is recommended that the strategy is secured by condition and delivered in accordance with the submitted Sustainability and Energy Statement.

6.53 In terms of sustainability, the London Borough of Tower Hamlets requires all refurbishment residential schemes to achieve an Excellent Ecohomes rating. This is to ensure the highest levels of sustainable design and construction in accordance with Policy 5.3 of the London Plan 2011 and Policy DM29 of the Managing Development Document.

6.54 The submitted information commits to achieving an Excellent rating, and a pre-assessment demonstrating this level is deliverable has been submitted. It is recommended that achievement of the excellent rating is secured through an appropriately worded condition with the final certificate submitted to the Council prior to occupation.

6.55 **[Officer Comment:** These matters will be secured via an appropriately worded condition.]

## 7. LOCAL REPRESENTATION

7.1 A total of 87 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:	5	Objecting:	5	Supporting:	0
No of petitions received:	0			General observation:	1

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:

### 7.3 Land Use

§ Loss of educational use – shortage of educational facilities in the borough.

7.4 **[Officer Comment:** This is fully discussed in the Land Use section of this report].

### 7.5 Density

§ Overdevelopment would result in to the area being too densely populated  
Increased population in the area is already putting pressure on services and this application would worsen the situation.

7.6 **[Officer Comment:** This is fully discussed in the Density section of this report].

### 7.7 Listed Building

§ Demolition of part of listed building is not acceptable  
§ The replacement building would not be in keeping with the appearance of the buildings and area

7.8 **[Officer Comment:** This is fully discussed in the Listed Building section of this report].

### 7.9 Highways

§ Parking problems and increased pressure on parking spaces in the area  
§ Impact on the local church – the congregation use parking spaces in the area on Sundays  
§ Increased traffic movements would affect capacity of the road network  
§ Impact on safety of pedestrians in the area especially children  
§ Access to the site will put a stress on the residents

7.10 **[Officer Comment:** This is fully discussed in the Highways section of this report].

### 7.11 Amenity

§ Overlooking to residents of College Terrace  
§ Impact of new residents living next to existing Church which has lively services on Sundays.

7.12 **[Officer Comment:** This is fully discussed in the Amenity section of this report].

### 7.13 Other

§ Heritage Statement is factually incorrect and does not list the nearest Locally Listed

Buildings correctly.

- 7.14 [**Officer Comment:** These concerns are noted. Officers consider that sufficient information has been submitted to allow an assessment of the application.]

## **8. MATERIAL PLANNING CONSIDERATIONS**

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

1. Land Use
2. Housing
3. Listed Building works
4. Conservation and Design
5. Amenity
6. Highways
7. Energy & Sustainability
8. Contamination
9. Section 106 Agreement
10. Localism Act (amendment to S70(2) of the TCPA 1990)
11. Human Rights Considerations
12. Equality Act Considerations

### **Land Use**

#### Loss of Educational facility

- 8.2 Policy 3.18 of the London Plan (LP) and SP10 of the Core Strategy (CS) seek to ensure that development proposals enhance education and skills and increase provision of both primary and secondary education facilities within the borough.
- 8.3 Policy DM18 of the MDD provides detailed guidance in respect of the change of use from education. The policy states that the redevelopment of an existing school is supported where there is adequate re-provision on site or in accordance with any site allocation, unless it can be demonstrated that there is no need to retain the school.
- 8.4 The buildings are currently occupied by Central Foundation Girls School and this is the location of the sixth form campus. The redevelopment of the main campus of Central Foundation Girls School at Harley Grove and 41-47 Bow Road has been subject to separate applications for full planning permission, listed building consent and conservation area consent. The redevelopment of these buildings including, some demolition works, extension of existing buildings and new buildings was granted consent by the Council on 16 March 2011. The intention is to move the sixth form campus from College Terrace to a new building at 41-47 Bow Road next to Harley Grove. As such, the loss of the educational facility would be acceptable in this instance given it is being re-provided at the main campus.

#### Acceptability of Housing

- 8.5 Delivering housing is a key priority both nationally and locally and this is acknowledged within the NPPF, Strategic Objectives 7, 8 and 9 of the CS and policy 3.1 of the LP which gives Boroughs targets for increasing the number of housing units.
- 8.6 Strategic policy SP02 of the CS sets Tower Hamlets a target to deliver 43,275 new homes (2,885 a year) from 2010 to 2025. The policy also sets out where this new housing will be

delivered and identifies the Bow area as having potential for high growth. Taking this into account, and given the surrounding area is predominantly residential in character, it is considered that this development would be an acceptable use of previously developed land and would be in accordance with the above planning policies.

- 8.7 The site does not have an allocation within the MDD. The site currently provides 3280.6 square metres of education floor space (Use Class D1). The application proposes the redevelopment of the site to provide a high quality residential scheme with a range of unit sizes including some family housing.
- 8.8 Given, the area is predominantly residential in nature it is considered that this would be a suitable location for a residential development subject to the ability to convert the listed building.

### **Density**

- 8.9 The NPPF stresses the importance of making the most efficient use of land and maximising the amount of housing. This guidance is echoed in the requirements of policies 3.4 of the LP and strategic objective SO7 and strategic policy SP02 of the CS which seek to ensure new housing developments optimise the use of land by associating the distribution and density levels of housing to public transport accessibility levels and the wider accessibility of that location. Table 3.2 of policy 3.4 of the LP provides guidelines on density taking account of accessibility and setting.
- 8.10 The site has an excellent/very good Public Transport Accessibility Level (PTAL) (6a/5). For urban sites with a PTAL range of between 4 and 6, table 3.2 of the LP, suggests a density of between 400- 700 habitable rooms per hectare. The proposed density would be 312 habitable rooms per hectare (net site area), which is within the suggested density range, albeit below the scale.
- 8.11 In accessing this application against the criteria contained within policy SP02 of the CS it is considered that the density range at 312 habitable rooms per hectare would be appropriate for the setting of the site. It is noted that in numerical terms the proposed density indicates an under-development of the site; however, because of the constraints of the heritage assets (listed building and conservation area) it is not considered that the site could support a denser development. As such, it is considered that the proposal maximises the intensity of use on the site and is supported by national, regional and local planning policy, and complies with Policy 3.4 the LP and Policy SP02 of the CS which seek to ensure the use of land is appropriately optimised in order to create sustainable places.
- 8.12 Some local residents have raised concerns about the impact of any new development coming forward on the application site. However, it should be noted that the impact of the development has been carefully considered to limit any adverse impacts through the use of conditions and through the provision of financial contributions to be used to deliver infrastructure in the surrounding area. To conclude, the density of development is considered acceptable in this location.

### **Housing**

- 8.13 Policy 3.3 of the LP seeks to increase London's supply of housing, requiring Boroughs to exceed housing targets, and for new developments to offer a range of housing choices, in terms of the mix of housing sizes and types and provide better quality accommodation for Londoners.
- 8.14 Policy SP02 of the CS seeks to deliver 43,275 new homes (equating to 2,885 per year)



from 2010 to 2025 in line with the housing targets set out in the London Plan.

- 8.15 The application proposes 36 new residential units (Use Class C3) within the site.

Affordable Housing:

- 8.16 Policies 3.10, 3.11 and 3.12 of the LP define Affordable Housing and seek the maximum reasonable amount of affordable housing taking into account site specific circumstances and the need to have regard to financial viability assessments, public subsidy and potential for phased re-appraisals.
- 8.17 Policy SP02 of CS seeks to maximise all opportunities for affordable housing on each site, in order to achieve a 50% affordable housing target across the Borough, with a minimum of 35% affordable housing provision being sought.
- 8.18 As detailed in table 1 below, the proposal provides 35% affordable housing provision by habitable room, or 12 units.
- 8.19 Table 1: Affordable Housing Provision

Unit Type	Affordable Housing				Market Housing		Total	
	Affordable Rent		Intermediate		Unit	Hab. Rm.	Unit	Hab. Rm.
	Unit	Hab. Rm.	Unit	Hab. Rm.				
1 bed flat	2	4	1	2	7	14	10	20
2 bed flat	1	3	2	6	10	30	13	39
3 bed flat	5	20	1	4	6	24	12	48
4 bed house	0	0	0	0	1	5	1	5
<b>Total</b>	<b>8</b>	<b>27</b>	<b>4</b>	<b>12</b>	<b>24</b>	<b>73</b>	<b>36</b>	<b>112</b>

- 8.20 The application was initially submitted with a proposed provision of 24% affordable housing by habitable room which equated to 9 units. This was supported by a viability appraisal which sought to demonstrate that the provision of a policy compliant level of affordable housing (35%) and financial contributions in line with the S106 SPD would not be viable.
- 8.21 The submitted viability appraisal was independently assessed on behalf of the Council who advised that the development could support a higher level of affordable housing. The main area of disagreement related to the benchmark value for the land.
- 8.22 Following detailed negotiations and sensitivity testing of different options it was established that the scheme could provide 35% affordable housing by habitable room and financial contributions of £418,982.54 (the detail of which is discussed in full later in this report). This is the maximum reasonable amount of affordable housing and planning contributions whilst ensuring the scheme can be delivered and is viable.
- 8.23 Further to the findings the independent assessment the application has been revised to provide 34.8% affordable housing by habitable room. Appropriately rounded this accords with the policy requirement of 35% affordable housing. It is considered that on balance, the

provision of 35% affordable housing by habitable room is considered acceptable and accords with policy.

Housing Tenure:

- 8.24 With regard to the tenure of housing, the application proposes a mix of affordable rent (POD levels) and intermediate rent.
- 8.25 Affordable rented housing is defined as: Rented housing let by registered providers of social housing to households who are eligible for social rented housing. Affordable Rent is not subject to the national rent regime but is subject to other rent controls that require a rent of no more than 80% of the local market rent.
- 8.26 Social target rent is defined as rented housing owned and managed by local authorities, registered provider (RP) or and Approved Affordable Housing Provider (AAHP) for which guided target rent are determined through the national rent regime.
- 8.27 Intermediate affordable housing is defined as: Housing at prices and rents above those of social rent, but below market price or rents, and which meet the criteria set out above. These can include shared equity products (e.g. Home Buy), other low cost homes for sale and intermediate rent but does not include affordable rented housing.
- 8.28 In respect of policy DM3 of the MDD, it is considered that in this instance the provision of affordable rent product is justified in light of the viability issues discussed above. As part of the independent review of the applicant’s viability toolkit, options to provide the units as social rented accommodation were fully investigated; it was concluded the larger family affordable units could be delivered at social target rents. It is noted that the Council’s Housing team are supportive of the provision of affordable housing.
- 8.29 The affordable element is split 69:31 in favor of affordable rented, this is in line with the Council’s policy target of 70:30, as set out in the strategic policy SP02 of the CS.
- 8.30 The scheme proposes to deliver the Affordable Rents, with rent levels in line with research POD undertook for the Council to ensure affordability. The LBTH Housing team supports this approach. The three bedroom units are to be provided at social rent levels.
- 8.31 Table 2: Affordable Rent Levels (POD) for E3 and social target rent levels

	1 bed (pw)	2 bed (pw)
Proposed development POD levels/E3 POD rent levels inclusive of service charges	£169.85	£198.32

	3 bed (pw)
Proposed development social target rent levels plus service charges	£147.70

Housing Mix:

- 8.32 Pursuant to Policy 3.8 of the London Plan, new residential development should offer genuine housing choice, in particular a range of housing size and type.
- 8.33 Strategic policy SP02 of the CS also seeks to secure a mixture of small and large housing, requiring an overall target of 30% of all new housing to be of a size suitable for families (three-bed plus), including 45% of new affordable homes to be for families.
- 8.34 Policy DM3 (part 7) of the MDD requires a balance of housing types including family homes. Specific guidance is provided on particular housing types and is based on the Councils most up to date Strategic Housing Market Assessment (2009). Table three shows the proposed housing and tenure mix.
- 8.35 Table 3: Housing Mix

		Affordable Housing						Private Housing		
		Affordable Rent			Intermediate			Market Sale		
Unit size	Total Units	Unit	%	LBTH target %	Unit	%	LBTH target %	Unit	%	LBTH target %
1bed	10	2	25%	30%	1	25%	25%	7	29%	50%
2bed	13	1	12.5%	25%	2	50%	50%	10	42%	30%
3bed	12	5	62.5%	30%	1	25%	25%	6	25%	20%
4bed	1	0	0%	15%	0			1	4%	
5bed	0	0			0			0		
<b>Total</b>	<b>36</b>	<b>8</b>	100%	100	4	100%	100	<b>24</b>	100%	100

- 8.36 Though there is an under provision of one beds within the affordable rented tenure, this is considered acceptable as it would lead to an above target provision of much needed family accommodation, providing a 62.5% provision against a 45% target, including 3 bed flats.
- 8.37 The intermediate tenure provides policy compliant housing mix.
- 8.38 Within the market tenure there is an under provision of one beds which is offset by an over provision of two beds and much needed family housing.
- 8.39 With regard to the housing mix, on balance given that the proportion of family housing within the affordable rented tenures exceeds targets and within the intermediate and private tenure is broadly policy compliant, officers consider the housing mix acceptable.
- 8.40 On balance, it is considered that the proposal would provide an acceptable mix of housing and contributes towards delivering mixed and balanced communities across the wider area.

Furthermore, the provision of 35% on site affordable housing is welcomed. Therefore, it is considered that the application provides an acceptable mix in compliance with Policy 3.8 of the London Plan (2011), Policy SP02 of the CS and Policy DM3 of the MDD which seek to ensure developments provide an appropriate housing mix to meet the needs of the borough.

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

#### Housing Layout and Private Amenity Space:

- 8.41 London Plan policy 3.5 seeks quality in new housing provision. London Plan policy 3.5, the London Housing SPG and MDD policy DM4 requires new development to make adequate provision of internal residential space.
- 8.42 Policy DM4 also sets out standards for new housing developments with relation to private amenity space. These standards are in line with the London Housing SPG, recommending that a minimum of 5 sq. m of private outdoor space is provided for 1-2 person dwellings and an extra 1 sq. m is provided for each additional occupant.
- 8.43 The proposed development with the exception of one 1 bedroom unit is designed to the London Housing SPG standards. The one bedroom unit (F.02) falls short by 2sq metres however, because of the constraints of the proposal within the setting of designated heritage assets (listed building and conservation area) the unit size is considered acceptable in this instance.

#### Private Amenity Space:

- 8.44 Given, the constraints of the listed building where intervention would be undesirable it would not be possible to provide private amenity space for the units. As such, the introduction of balconies and new door openings for the most part would affect the historic fabric of the listed building and would not be acceptable. Given, the level of communal amenity space provision and the fact this is a listed building in this instance non-compliance with private amenity space standards is considered acceptable.

#### Communal Amenity Space:

- 8.45 For all developments of 10 units or more, 50sqm of communal amenity space (plus an extra 1sqm for every additional 1 unit thereafter) should be provided. There would be a requirement for 76 square meters of communal amenity space. Overall, the development would include the provision of large useable communal amenity space which approximately measures 1132 square metres.
- 8.46 It is considered that quantity of the proposed amenity space would be acceptable. It is recommended that if planning permission were granted that full details of landscaping be controlled via condition.

#### Child Play Space:

- 8.47 Policy 3.6 of the LP, strategic policy SP02 of the CS and policy DM4 of the MDD seeks to protect existing child play space and requires the provision of new appropriate play space within new residential development. Policy DM4 specifically advises that applicants apply LBTH child yields and the guidance set out in the Mayor of London's SPG on 'Shaping Neighbourhoods: Play and Informal Recreation' (which sets a benchmark of 10 sq.m of useable child play space per child).

- 8.48 Using the Tower Hamlets SPG child yield calculations, the overall development is anticipated to yield 9 children and accordingly the development should provide a minimum of 90sq metres of play space in accordance with the LP and MDD's standard of 10sq metres per child. The application proposes 125sq metres of child play space. The proposed provision of play space for the scheme is in excess of the required standard as such the proposed play space is considered acceptable.

Wheelchair Housing and Lifetime Homes Standards:

- 8.49 Policy 3.8 of the LP and strategic policy SP02 of the CS require that all new housing is built to Lifetime Homes Standards and that 10% is designed to be wheelchair accessible or easily adaptable for residents who are wheelchair users.
- 8.50 Across the development, 4 residential units are proposed to be provided as wheelchair accessible which represents 11% of all units and accords with Council policy. The units are to be distributed across the intermediate, affordable and private rent tenures which is supported by LBTH housing. The level of provision exceeds policy standards and is considered acceptable. If planning permission is granted a condition would be attached to ensure that the 4 wheelchair accessible units are delivered within the scheme.

**Impact on Designated Heritage Asset**

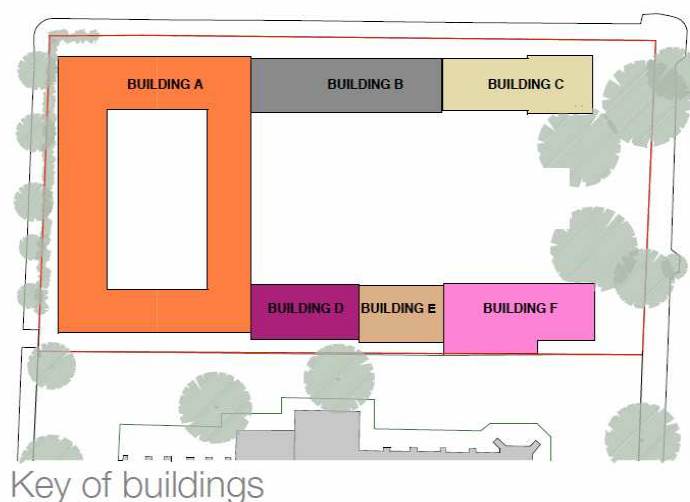
Policy Context:

- 8.51 When determining listed building consent applications, section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires that the local planning authority shall have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.
- 8.52 With regards to applications within conservation areas, Section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area.
- 8.53 Section 12 of the NPPF provides specific guidance on 'Conserving and Enhancing the Historic Environment'. Para. 131 specifically requires that in determining planning applications, local planning authorities should take account of:
- *“desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation,*
  - *the positive contribution that conservation of heritage assets can make to sustainable communities including their economic viability; and*
  - *the desirability of new development making a positive contribution to local character and distinctiveness.”*
- 8.54 Guidance at paragraph 132 states that any consideration of the harm or loss requires clear and convincing justification as well as an assessment of the impact of the proposal on the significance of the designated heritage asset and establish if it would lead to substantial harm or loss (advice at paragraph 133) or less than substantial harm (advice at paragraph 134).
- 8.55 Parts 1-3 of strategic policy SP10 of the CS provide guidance regarding the historic environment and states at part 2 of the policy that the borough will protect and enhance heritage assets and their setting. Policy requires that proposals protect or enhance the boroughs heritage assets, their setting and their significance.

- 8.56 Policy DM27 part 2 of the MDD applies when assessing the proposed alterations to the Grade II Listed building. The policy provides criteria for the assessment of applications which affect heritage assets. Firstly, applications should seek to ensure they do not result in an adverse impact on the character, fabric or identity of the heritage asset or its setting. Part (c) also applies given it seeks to enhance or better reveals the significance of the asset or its setting.

Designated Grade II Listed Building:

- 8.57 This Grade II listed school is an attractive Edwardian building of special architectural and historic interest. Designed by Figgis and Munby and dating from 1909 it is in “renaissance” style, and wraps around a central courtyard (the site of the earlier school buildings) with a semi-circular arcade of pillars to the Morgan Street elevation. The building is made up of redbrick with Portland stone dressings, the main block (Building A) being topped with a hipped roof with central cupola and flanked with two shorter square flanking towers also with cupolas.
- 8.58 The building is significant for its special architectural and historic value, and for its artistic and aesthetic value. It has evidential interest in terms of changing views of education and is of communal value.
- 8.59 Not only is it significant in its own right, but it is a substantial and dramatic composition, which contributes positively and significantly to the wider Tredegar Square Conservation Area, and forms part of the setting of the adjacent Holy Trinity Church, (Ecclesiastical Grade C Statutory Listed Building).
- 8.60 The buildings form a rectangular shape with the buildings forming a continuous ‘U’ shape around the central courtyard, enclosed by east and west wings and classrooms surrounding a double-height hall at the northern end.
- 8.61 The buildings form a continuous edge to three boundaries (north, east and west), with setbacks of up to 4m. At the south boundary, the open end of the U-shape, the buildings are setback approximately 8m from the boundary, behind a decorative curved, stone colonnade.
- 8.62 The ‘U’ shape configuration is reasonably homogenous in terms of style and materiality, but is clearly made up of a number of distinct buildings. All these buildings are of 2 or 3 stories high.
- 8.63 The buildings have been given letter designations and are referred to as ‘Building A’, ‘Building B’, ‘Building C’, ‘Building D’, ‘Building E’ and ‘Building F’. The diagram below shows the location of each building.



8.64 Internally the school retains a number of important and distinctive spaces and some interesting features and joinery. The most significant of these are the main hall (Building A), the gymnasium space (Building B) and the vaulted dining room (Building C).

8.65 The main hall itself is a double height space with a panelled gallery supported upon decorative corbels. It is lit by high level Diocletian windows.

8.66 The dining hall within the eastern wing has panelled walls and a barrel vaulted double height space and contrasts with the unusual gym hall adjacent, which is open to the roof and is lit by small high level windows and dormer windows.

8.67 Setting aside these architecturally detailed spaces and the staircases in either wing, the majority of the class rooms are relatively modest in character with the interest being contained within the space itself, flooring, joinery and fenestration details.

8.68 The current proposals are for the conversion of the educational facility to residential use, and involve the demolition of a later section of the school buildings in the western wing ('Building E').

Principle of alterations to Grade II Listed Building – Listed Building Application:

8.69 Fundamentally, the layout of the proposed scheme is based around the layout of the existing buildings. The proposal reinforces the existing layout whilst adopting a new residential use.

8.70 The scheme proposes the re-use of the existing school room layouts to house the new residential units. In principle, a basic classroom will form one flat, with the larger common rooms subdivided to form individual flats. The existing rooms generally have generous proportions internally, with particularly high ceilings, and these internal volumes of rooms are maintained within the new scheme. Mezzanine levels will be created in 'Building B' and 'Building C' in order to utilise the ceiling heights. The mezzanine floor in 'Building C' will consist of pod like structure reducing impact on existing wall, window and ceiling features.

8.71 Existing entrances and circulation, including original staircases, will be retained, and the flats are planned around them. The courtyard would form an integral part of the development, with the retention of the existing doors which open out onto it, and this in turn will give the courtyard a defined, active use.

8.72 The existing school entrance, into 'Building A' from College Terrace, will be retained as the

main entrance to the building. The hall will also be retained in its essence as a triple height, top-lit space, and will form part of the entry sequence and an amenity space for residents of 'Building A'.

8.73 Refurbishment works are proposed throughout the site with the only proposed demolition being of the 1970's section of 'Building E'.

The following works are proposed within each building:

8.74 'Building A' Main Hall

- Retention of the existing layout and area, as well as the existing entrance and stairs for circulation.
- Central hall retained as existing with double height space.
- Hall will form residents' amenity space, and provides access to each flat.
- Each classroom is converted in to one flat, so that the volume and proportions of the existing rooms are maintained. In total 14 flats will be created within the existing class rooms.

8.75

8.76 The previous glazed division of the main hall and the stairs located in the space have been removed in the revised proposal. The hall will now be used as a single area, in the way it is at present.

8.77 'Building B' Gym Space

- Retention of existing internal area to produce double aspect flats, existing large gym area split into flats with double height and exposed trusses retained.
- Mezzanine floor created
- Existing vertical circulation retained and reused.
- In total 5 flats will be created, the ground floor flats will have individual entrances from the courtyard.
- Creation of rooflights to the east and courtyard elevation
- New circular windows to the east and courtyard elevation

8.78 The proposal 'Building B' has been revised to remain largely as a single space, though divided so as to form two flats by means of a wall that sits centrally between two window openings. The existing additional level at the northern end will be retained and adapted for residential use.

8.79 A matching mezzanine level will be provided within the southern flat, but will occupy no more than a third of the space, leaving the large majority of the southern flat as a single area beneath the roof.

8.80 'Building C' vaulted panelled dining room

- Retention of existing internal area to produce double-fronted flats,
- First floor flats will have a mezzanine pod level to take advantage of high, vaulted ceilings and panelling detail to walls.
- In total 4 flats will be created over three floors
- Ground floor flats will have individual entrances from courtyard
- Existing staircases will be retained, providing access to first floor flats

8.81 The proposal for 'Building C' has been revised so as to create one unit at ground floor and in the double height barrel-vaulted former dining hall above. The mezzanine level in the



double height hall will be set back from the external walls and the tall windows, and in addition, the mezzanine level will also be set away from the northern wall of the space so as to sit centrally in the space, fully detached from the surrounding walls.

8.82 At the first floor level no partitions touch the external walls. At ground floor, partitions extend to the existing walls, but will not interfere with window openings.

8.83 'Building D'

- Retention of existing internal area to produce duplex flats, with first floor flats having a double height ceiling.
- Flats will have individual entrances from courtyard

'Building E' 1930's and 1970's infill

8.84 The revised proposal retains the 1930's infill building but includes the demolition of the 1970's section of the infill. It is noted that the 1930's infill section of the building is part of the buildings history and whilst obviously a later addition it has attempted to take account of the neoclassical detailing of the school, and is intended to sit comfortably within its context. The revised proposal to retain the 1930's infill section is welcomed.

8.85 The 1970's section of the infill will be replaced with a new insertion that matches the height of the retained 1930's phase furthermore; it would be in keeping with the parapet line of 'Building F'. This section will be rebuilt in brick and will consist of two bays with a central door opening onto the courtyard. Windows are proposed at ground, first and second floor level and are positioned to overlook the courtyard and church grounds, to maximise views and passive surveillance.

8.86 Building F

- Retention of existing internal area to produce flats at ground and first floor, with all flats accessed from existing staircase.

8.87 The application was accompanied with a summary of schedule of works however; the information provided did not include sufficient detail. As such further details will be required to ensure that the works protect the special architectural and historic character of the Grade II listed building; this will be secured via condition.

Principle of demolition of 1970's infill section of 'Building E' – Conservation Area Consent:

8.88 The proposal includes the demolition of one section of 'Building E'. The 1930's section will be retained and converted to flats off existing access. 1970's section will be demolished and replaced with sympathetic new build integrated into 1930's retained section.

8.89 It is noted that the demolition of 'Building E' was not accepted in the previous scheme, However, given that the scheme has been revised to retain the 1930's section which is of significant merit in comparison to the 1970's, the Design and Conservation Officer has not objected to the loss of the 1970's section. In principle the demolition of 1970's infill section of 'Building E' is acceptable.

8.90 It is considered that the loss of the 1970's section of the infill building would not result in substantial harm to the special architectural interest of the Grade II listed building and conservation area given the lack of significance of the building by merit of the lack of architectural quality and current state of repair. The proposed demolition would accord with

policy given officers are supporting the redevelopment proposals.

Conclusion:

- 8.91 Planning Officers in conjunction with the Conservation Design Officer have reviewed the revised proposed scheme which has been the subject of extensive negotiation and is now considered acceptable in principle. However, further details will be required to ensure that the work protects the special architectural and historic character of the building which will be secured through conditions.
- 8.92 As such, subject to conditions to ensure high quality materials and finishes, the proposal would preserve the character and appearance of the Grade II Listed Building and the Tredegar Square Lane Conservation Area, in accordance with Policy SP10 of the Council's adopted Core Strategy (2010), Policies DM24 and DM27 of the Managing Development Document (April 2013) and government guidance set out in Section 12 of the National Planning Policy Framework (2012). These policies and government guidance seek to ensure that development is well designed and that it preserves or enhances the character and appearance of the Borough's Conservation Areas.

**Design**

Policy Context

- 8.93 Chapter 7 of the LP places an emphasis on robust design in new development. Policy 7.4 specifically seeks high quality urban design having regard to the pattern and grain of the existing spaces and streets. Policy 7.6 seeks highest architectural quality, enhanced public realm, materials that complement the local character, quality adaptable space and optimisation of the potential of the site.
- 8.94 Policy SP10 of the CS and DM24 of the MDD, seek to ensure that buildings and neighbourhoods promote good design principles to create buildings, spaces and places that are high-quality, sustainable, accessible, attractive, durable and well-integrated with their surrounds.

Proposal and Assessment:

- 8.95 The proposal includes part demolition of 'Building E' (1970's section) and it's replacement with a modern three storey building which would be located on the western wing of the development.

*Building E:*

- 8.96 The proposed 'Building E' would be a modern brick infill building which would essentially be a three storey building and will match the height of the retained 1930's infill section furthermore; it would be in keeping with the parapet line of 'Building F'. This section will be rebuilt in brick and will consist of two bays with a central door opening onto the courtyard. Windows are proposed at ground, first and second floor level and are positioned to overlook the courtyard and church grounds, to maximise views and passive surveillance.
- 8.97 In conclusion it is considered that the proposed modern 'Building E' is acceptable in respect of design, bulk, and scale and massing and would preserve and enhance the Tredegar Square Conservation Area and would not affect the setting of the group of Grade II listed buildings.

*Proposed roof lights and circular windows to 'Building B'*

- 8.98 It is proposed to add roof lights to the east and courtyard elevation of 'Building B'. The roof has existing dormer style windows and the new roof lights will provide much needed light to the new residential flats. The proposed circular windows will be created within the existing circular stone features.
- 8.99 Further details and material will be secured via condition to ensure that the conservation rooflights are set flush with the plain of the roof and the new circular windows match the existing in design and material.

*Cycle Parking and Refuse Stores:*

- 8.100 It is considered that insufficient information has been provided to assess the impact of the proposed cycle store and refuse store in design terms. However, this matter would be controlled via condition to ensure high quality materials which respect the Grade II listed building and conservation area setting are used.

Conclusion:

- 8.101 Officers consider that the part demolition of 'Building E' and the infill modern building successfully addresses the important setting of the Grade II Listed Building. It is considered that subject to conditions the modern additions would be acceptable in respect of design, bulk, scale and massing; they will preserve or enhance the character and appearance of the Tredegar Square Conservation area and would not adversely affect the setting of the listed building.
- 8.102 Officers have carefully considered the proposed development taking account of previous decisions and considered that the design, bulk, scale and massing are acceptable and in keeping with the scale of development within the surrounding area. The development would protect the setting of the listed building and would preserve the character and appearance of the conservation area.

**Amenity**

- 8.104 Part 4a and b of policy SP10 of the CS and policy DM25 of the MDD seek to protect the residential amenity of the residents of the borough. These policies seek to ensure that existing residents adjacent to the site are not detrimentally affected by loss of privacy or overlooking of adjoining habitable rooms or have a material deterioration of daylight and sunlight conditions.

Daylight, Sunlight and Overshadowing:

- 8.103 The proposed new building elements include a part new infill 'Building E' which replaces an existing building.
- 8.104 As no addition bulk or height is being proposed it is not considered that the addition would have an adverse impact on the residents of College Terrace or Lichfield Road. The minimum separation distance between the listed building and 2 College Terrace is approximately 17.8 meters. As such, given the new development is in keeping with the existing street lines and given the separation distance, it is not considered that there would be an adverse impact on the daylight or sunlight levels of adjacent residents or an increase in overshadowing.

8.106 Privacy and Overlooking:

Local residents are concerned about a loss of privacy and an increase in overlooking between their properties and the new residential development. It is noted that the building follows existing street patterns within the conservation area. As such, it is not considered that the proposal would result in an unacceptable loss of privacy or increase in overlooking in this urban location.

8.107 Future residents:

It is evident from the submitted drawings that at ground floor level there is potential for conflict between communal and private defensible spaces. It is important that defensible space is clearly defined for the ground floor residential properties. This will ensure that an acceptable level of privacy is maintained for these residents and there is no undue overlooking. It is considered that this would need to form an essential part of the proposed landscaping plan which will be secured via condition.

Conclusion:

8.108 It is considered that the proposal would not have an adverse impact on the amenity of surrounding residents. As such the proposal is in accordance with strategic policy SP10 of the Core Strategy (2010) and policy DM25 of the Managing Development Document (April 2013) which seek to protect residential amenity.

8.109 To conclude, the proposed development would not give rise to any unduly detrimental impacts in terms of privacy, overlooking, outlook, sense of enclosure, sunlight and daylight, and noise upon the surrounding residents. Also, the scheme proposes appropriate mitigation measures to ensure a satisfactory level of residential amenity for the future occupiers which accords with policy.

**Transport, Connectivity and Accessibility**

8.110 The NPPF and Policy 6.1 of the London Plan 2011 seek to promote sustainable modes of transport and accessibility, and reduce the need to travel by car. Policy 6.3 also requires transport demand generated by new development to be within the relative capacity of the existing highway network.

8.111 CS Policy SP08 & SP09 and Policy DM20 of the MDD together seek to deliver an accessible, efficient and sustainable transport network, ensuring new development has no adverse impact on safety and road network capacity, requires the assessment of traffic generation impacts and also seeks to prioritise and encourage improvements to the pedestrian environment.

8.112 The site has an excellent/very good public transport accessibility level (PTAL 6a/5) (1 being poor and 6 being excellent). The Borough Highway Officer is in support of the application as set out within section six of this report.

Car Parking:

8.113 Policies 6.13 of the London Plan, strategic policy SP09 of the CS and policy DM22 of the MDD seek to encourage sustainable non-car modes of transport and to limit car use by restricting car parking provision.

8.114 The most up to date parking standards are found within Appendix 2 of the MDD. Parking standards are based on the PTAL of a given site. This application has proposed no onsite

car parking. It is recommended that the development would be secured as permit free to prevent future residents from securing parking permits for the local area. This would be secured via the s106 agreement.

Provision for Cyclists:

8.115 In accordance with cycle parking requirements, 44 cycle parking spaces have been provided within the courtyard. Highways Officer has advised that 49 cycle spaces (25 standard Sheffield stands) will need to be provided within the development. This will be secured via condition. The proposal therefore complies with London Plan policy 6.13.

Other:

8.116 Local residents are concerned about the impact of the proposed development on the surrounding highways network in respect of capacity and safety. The impact of the construction phase would be controlled via a Construction Management Plan (CMP) which would be secured via condition. Given, the development would be secured as car free the impact on the surrounding car parking provision would not be affected as future residents would not be able to apply for on-street car parking permits.

8.117 Subject to the development being secured as permit free and conditions securing cycle parking and s278 works that the proposed development would not have an adverse impact on the surrounding highway network. Additionally, it is not considered that the proposed 36 new units would result in an unduly detrimental impact upon local public transport infrastructure.

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

**Energy & Sustainability**

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

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

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

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

8.122 The applicant has demonstrated that the total anticipated CO2 savings from the development are 35%, through a combination of energy efficiency measures, a CHP power system and renewable energy technologies. The CO2 savings are in accordance with policy DM29. The strategy will be secured by condition to be delivered in accordance with the submitted Sustainability and Energy Statement.

8.123 Therefore, the CO2 savings proposed for this development are considered acceptable. The applicant has proposed to achieve an Excellent Ecohomes rating which is also supported by Sustainable Development Team. The energy strategy (including the additional information) and Ecohomes rating would be secured through appropriate conditions.

8.124 Environmental sustainability matters, including energy, are acceptable and accord with policies 5.2 and 5.7 of the London Plan (2011) and policy DM29 of the Managing Development Document (2013), which seek to promote sustainable development practices.

### **Contamination**

8.125 The NPPF and policy DM30 of the MDD provide guidance with regard to the assessment of contamination risk.

8.126 In accordance with the Environmental Health Contaminated Land Officer's comments a condition will be attached which will ensure the developer carries out a site investigation to investigate and identify potential contamination.

### **Health Considerations**

8.127 Policy 3.2 of the London Plan seeks to improve health and address health inequalities having regard to the health impacts of development proposals as a mechanism for ensuring that new developments promote public health within the borough.

8.128 Policy SP03 of the Core Strategy seeks to deliver healthy and liveable neighbourhoods that promote active and healthy lifestyles, and enhance people's wider health and well-being.

8.129 Part 1 of Policy SP03 in particular seeks to support opportunities for healthy and active lifestyles through:

- Working with NHS Tower Hamlets to improve healthy and active lifestyles.
- Providing high-quality walking and cycling routes.
- Providing excellent access to leisure and recreation facilities.
- Seeking to reduce the over-concentration of any use type where this detracts from the ability to adopt healthy lifestyles.
- Promoting and supporting local food-growing and urban agriculture.

8.130 The applicant has agreed to financial contributions towards leisure, community facilities and health care provision within the Borough.

8.131 It is therefore considered that the financial contribution towards healthcare and community facilities and leisure will meet the objectives of London Plan Policy 3.2 and Policy SP03 of the Council's Core Strategy which seek the provision of health facilities and opportunities for healthy and active lifestyles.

### **Section 106 Agreement**

8.132 The NPPF requires that planning obligations must be:

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

8.133 Regulation 122 of CIL Regulations 2010 brings the above policy tests into law, requiring that planning obligations can only constitute a reason for granting planning permission where they meet such tests.

8.134 Securing appropriate planning contributions is further supported by policy SP13 in the CS which seek to negotiate planning obligations through their deliverance in kind or through

financial contributions to mitigate the impacts of a development.

8.135 The Council's Supplementary Planning Document on Planning Obligations was adopted in January 2012. This SPD provides the Council's guidance on the policy concerning planning obligations set out in policy SP13 of the adopted Core Strategy. The document also set out the Borough's key priorities being:

- Affordable Housing
- Employment, Skills, Training and Enterprise
- Community Facilities
- Education

The Borough's other priorities include:

- Public Realm
- Health
- Sustainable Transport
- Environmental Sustainability

8.136 This application is supported by a viability toolkit which details the viability of the development proposal through interrogation of the affordable housing provision and the planning obligations required to mitigate the impacts of this development proposal. The viability appraisal has established that it viable for the proposal to deliver 35% affordable housing alongside with a full contribution of £418,982.54 of planning obligations.

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

8.138 Based on the Council's s106 SPD, the viability of the proposal and the need to mitigate against the impacts of the development, 35% on-site affordable housing and a full contribution of £418,982.54 will be secured full s106 agreement.

8.139 The obligations can be summarised as follows:

#### Financial Obligations

- Education: £118,844
- Enterprise & Employment: £8,791.88
- Community Facilities: £46,475
- Health: £51,864
- Public realm: £183,622.32
- Sustainable Transport: £1,170
- Monitoring& Implementation 2% of total (£8,215.34)

#### Non-Financial Obligations

- 35% affordable housing
- Access to employment initiatives

- Permit free agreement
- Code of Construction Practice
- Communal play space and child space accessible to all future residents of the development

8.140 It is considered that the level of contributions would mitigate against the impacts of the development by providing contributions to all key priorities and other areas. Finally, it is considered that the S106 pot should be pooled in accordance with normal council practice.

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

8.141 Section 70(1) of the Town and Country Planning Act 1990 (as amended) entitles the local planning authority (and on appeal by the Secretary of State) to grant planning permission on application to it. From 15th January 2012, Parliament has enacted an amended section 70(2) as follows:

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

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

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

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

8.144 In this context “grants” might include the new homes bonus and payment of the community infrastructure levy.

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

8.146 Regarding Community Infrastructure Levy considerations, following the publication of the London Mayor’s Community Infrastructure Levy, Members are reminded that the London Mayoral CIL is now operational, as of 1 April 2012. The Mayoral CIL applicable to a scheme of this size is £ £79,310 which is based on the gross internal area of the proposed development. The scheme is proposed to provide 35% affordable housing and will therefore qualify for social housing relief on a proportion of this sum.

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

8.148 Using the DCLG’s New Homes Bonus Calculator, and assuming that the scheme is implemented/occupied without any variations or amendments, this development is likely to generate approximately £87.961 within the first year and a total of £527,763 over a rolling six year period. There is no policy or legislative requirement to discount the new homes bonus against the s.106 contributions, and therefore this initiative does not affect the



financial viability of the scheme.

### **Human Rights Considerations**

- 8.149 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:-
- 8.150 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
  - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
  - Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that *"regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole"*.
- 8.151 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.
- 8.152 Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.
- 8.153 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.
- 8.154 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 8.155 As set out above, it is necessary, having regard to the Human Rights Act 1998, to take into account any interference with private property rights protected by the European Convention on Human Rights and ensure that the interference is proportionate and in the public interest.
- 8.156 In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified. Officers have also taken into account the mitigation measures governed by planning conditions and the associated section 106 agreement to be entered into.

## **Equalities Act Considerations**

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

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

8.158 The contributions towards various community assets/improvements and infrastructure improvements addresses, in the short-medium term, the potential perceived and real impacts of the construction workforce on the local communities, and in the longer term support community wellbeing and social cohesion.

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

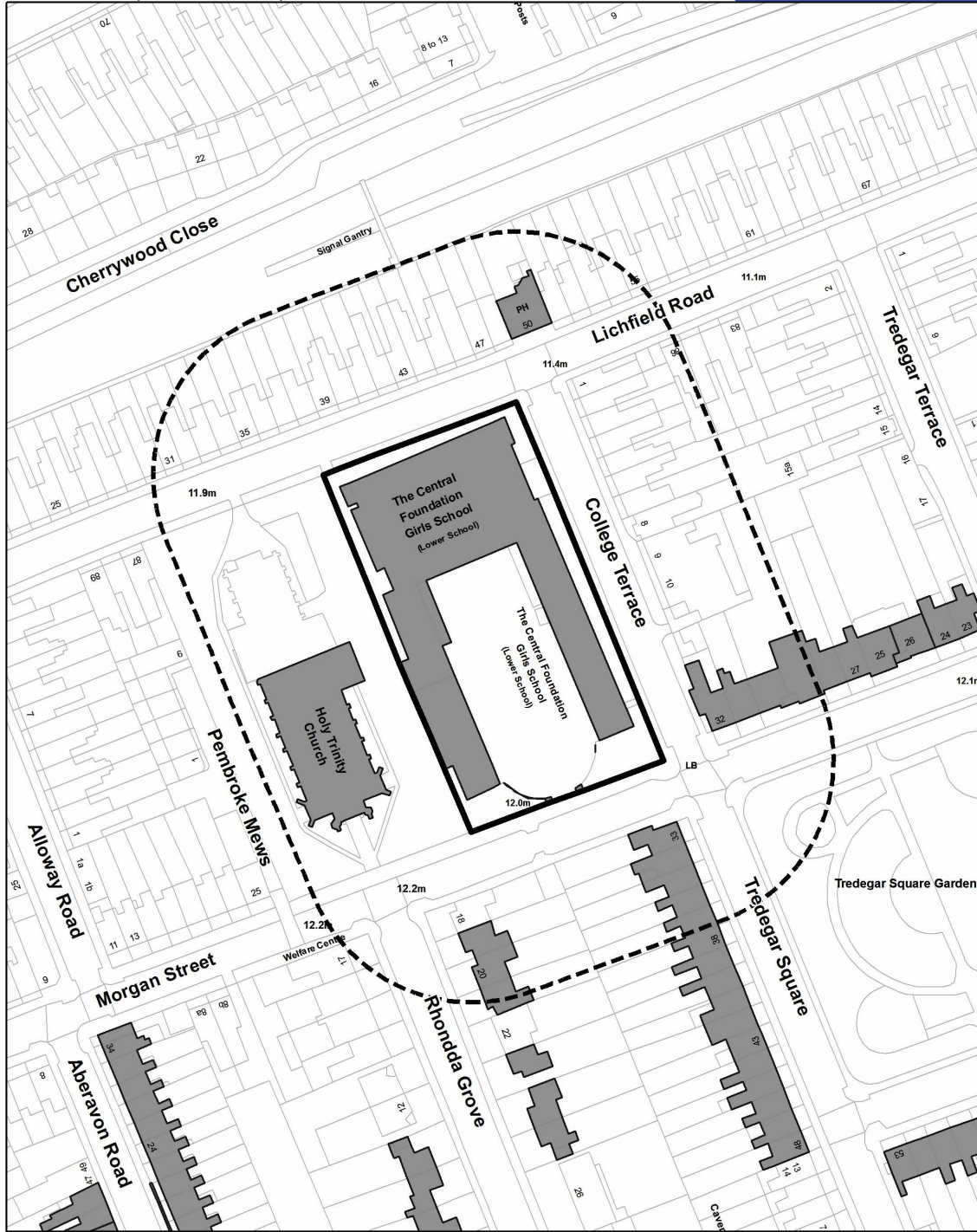
8.160 The community related contributions (which will be accessible by all), such as the new public piazza, help mitigate the impact of real or perceived inequalities, and will be used to promote social cohesion by ensuring that sports and leisure facilities provide opportunities for the wider community.

8.161 The contributions to affordable housing support community wellbeing and social cohesion and appropriate levels of wheelchair housing are to be provided, helping to provide equality of opportunity in housing.

## **Conclusions**

8.162 All other relevant policies and considerations have been taken into account. PLANNING PERMISSION, LISTED BUILDING CONSENT and CONSERVATION AREA CONSENT should be granted for the reasons set out in the SUMMARY OF MATERIAL PLANNING CONSIDERATIONS and the details of the decision are set out in the RECOMMENDATION at the beginning of this report.

**Planning Application Site Map**  
**PA/12/02576, PA/12/02577, PA/12/02578**



- Planning Application Site Boundary
- Consultation Area

- Locally Listed Buildings
- Statutory Listed Buildings

0 30 m 1:1,250

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.  
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# Agenda Item 7.2

<b>Committee:</b> Development	<b>Date:</b> 14 <sup>th</sup> August 2013	<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> Richard Humphreys		<b>Ref No:</b> PA/13/00719	
		<b>Ward:</b> Spitalfields and Banglatown	

## 1. APPLICATION DETAILS

**Location:** 4 Crispin Street, E1.

**Existing Use:** Restaurant.

**Proposal:** Change of use from Use Class A3 (Restaurant \ café) to Use Class A4 (Drinking establishment).

**Drawing Nos:** 1/1250 Site plan, 45L and Unnumbered site context plan.

**Supporting** Planning Statement.

**Documents:** Noise Impact Assessment WSP 15/05/2013

Photographs of site and surroundings

Brochure 'The Grocer, Spitalfields'

**Applicant:** Bishops Square Sari

**Owner:** Corporation of London and Ranu Miah

**Historic Building:** Grade 2 listed Horner Building (Spitalfields Market) adjoins.

**Conservation Area:** Fournier Street / Brick Lane adjoins.

## 2. EXECUTIVE SUMMARY

2.1 The local planning authority has considered the circumstances of this application against the planning policies contained in the National Planning Policy Framework, the London Plan 2011, Tower Hamlets Core Strategy 2010 and Tower Hamlets Managing Development Document 2013 and has found that:

1. A Class A4 (Drinking establishment) use is appropriate within the Central Activities Zone and the change of use accords with Chapter 2 'Town Centres' of the NPPF, policy 2.11 of the London Plan 2011, spatial policy SP01 of the Tower Hamlets Core Strategy and policy DM1 of the Tower Hamlets Managing Development Document 2013.
2. Subject to a legal agreement limiting the overall amount of floorspace within the Bishops Square development used for purposes falling within Class A3 (Restaurant / café), Class A4 (Drinking establishment) or Class A5 (Hot food takeaway) of the Town and Country Planning (Use Classes) Order 1985, the development would not result in an overconcentration of such uses.

3. Subject to safeguarding conditions regarding noise, hours of operation, restriction of the use of outdoor areas, loading, and the implementation of a Building Management Statement, the development would accord with policy 4.6 of The London Plan 2011 and policy DM25 of the Tower Hamlets Managing Development Document 2013 that require development to protect the amenity of surrounding residents and building occupants, and the amenity of the surrounding public realm, by not creating unacceptable levels of pollution including noise, odour and fumes.

### **3. RECOMMENDATIONS**

- 3.1 That the Committee resolves to **GRANT** planning permission subject to the prior completion of a legal agreement, to the satisfaction of the Chief Legal Officer, to secure the following:

No more than 42% of the Class A1 (Shop) and Class A3 (Food and drink) floorspace permitted by the Council's planning permission dated 19 November 2002 Ref. PA/02/00299 (excluding No. 3 Crispin Place) shall be used for purposes falling within Class A3 (Restaurant / café), Class A4 (Drinking establishment) or Class A5 (Hot food takeaway) of the Town and Country Planning (Use Classes) Order 1985.

2. The operator of the permitted Class A4 (Drinking establishment) at 4 Crispin Place shall regularly attend the neighbour meetings organised by the Spitalfields' Management Team.

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

- 3.3 That the Head of Development Decisions is delegated power to issue the planning permission and impose conditions (and informatives) to secure the following:

#### **Conditions**

- 3.4
  1. Development to begin within 3 years.
  2. There shall be no use of the northern terrace after 20.00 hours.
  3. Any music noise emanating from the premises must not be audible at the nearest affected facade.
  4. Noise of mechanical plant or equipment shall be at least 10dB below the recorded background noise level.
  5. The opening hours of the premises shall only be Monday to Saturday 10:00 hours to 23:00 hours and on Sundays and public holidays 10:00 hours to 22:00 hours.
  6. Loading and unloading shall be restricted to: Monday to Friday (8.00 am to 6.00 pm); Saturday (8.00 am to 1.00 pm); and not at all on Sunday & all public holidays.
  7. No occupation of the drinking establishment hereby permitted shall take place until a Building Management Statement has been submitted to and approved in writing by the local planning authority. The statement shall demonstrate that measures are in place to ensure that no undue disturbance is caused to the amenity of residents in the vicinity caused by the operation of the use and shall include: Details of full time management including contact details and security staff; the means of managing the use of the outdoor areas including the hours permitted; the means of ensuring that customers are not able to take drinks outside the demise of Unit 4; and signage asking customers to respect the amenity of adjoining residents. The drinking

establishment shall thereafter be managed in accordance with the approved Building Management Statement.

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

## **Informatives**

- 3.5
  1. Planning permission subject to section 106 agreement.
  2. Any other informative(s) considered necessary by the Corporate Director Development & Renewal.

## **4. BACKGROUND**

- 4.1 **PA/02/00299.** Planning permission for the Bishops Square development, which includes Crispin Place, was granted on 19 November 2002. The scheme included ground floor and basement buildings for flexible use within Use Class A1 (Shops) and Class A3 (Food and drink) of the then Town and Country Planning (Use Classes) Order 1985 with twelve floors of Class B1 office use over.
- 4.2. Condition 5 of planning permission PA/02/00299 limits the hours of operation of any A3 use to between 8 am and 11.30 pm Monday to Saturday and 8 am to 8 pm Sundays and Public Holidays unless otherwise agreed by the local planning authority. The reason is to protect the amenity of adjoining premises and the area generally.
- 4.3. Condition 11 of the permission stipulated that a maximum of 25% of the overall floorspace for Class A1/A3 uses should be Class A3 (Food and drink) uses. The reason was to ensure an appropriate level of retail floorspace within the development.
- 4.4. **PA/04/1683.** On 16 March 2005, the Council varied condition 11 of planning permission PA/02/299 to allow a maximum of 42% of the overall floorspace for Class A1/A3 uses to be Class A3 (Food and drink) uses.
- 4.5. **PA/05/1894.** On 30 June 2006, planning permission was granted for the change of use of 3 Crispin Place (adjoining Unit 4) to a Class A3 restaurant. The permission was accompanied by a section 106 Agreement between the developer and the Council that stipulated in the 4 year period following the change of use no further units within the Bishops Square development would be put to A3 restaurant use.
- 4.6. **PA/11/00176.** On 5 August 2011, a planning permission Ref. PA/07/3205 was renewed for the erection of a two-storey building over the service ramp alongside the north elevation of Bishops Square adjacent to 4 Crispin Street. The permission is unimplemented but would provide 462 sq. m of retail floorspace (Class A1) on the ground floor and eight serviced apartments (Class C1) above.

## **5. PROPOSAL AND LOCATION DETAILS**

### **Proposal**

- 5.1. Application is now made for planning permission to change of use of the Class A3 (Restaurant) at Unit 4 Crispin Place, to provide a drinking establishment (Class A4). The application site includes two outdoor seating areas fronting Lamb Street and Crispin Place

located behind fixed planters. Nominal external seating capacity is 80 people.

### **Site and surroundings**

- 5.2. 4 Crispin Placelies on the ground floor of the new Spitalfields Traders Market, part of the Bishops Square development east of Bishopsgate. The site is bounded to the north by Lamb Street and the new Spital Square, to the east by the Old Spitalfields Market (Horner Building) and to the south and west by the remainder of the Traders Market. The premises comprise a corner unit fronting Lamb Street and Crispin Place that runs through the market to Brushfield Street. The unit currently trades as the 'Scarlet Dot' restaurant (Use Class A3). It has 68 covers, comprises 92.5 sq. m and opens seven days a week from 9 am until 11 pm.
- 5.3. Immediate adjacent uses are three further A3 restaurants at Units 1, 2 and 3 Crispin Place and B1 (offices) above. All three adjoining restaurants have outdoor, seated eating areas.
- 5.4. The nearest A4 (Drinking establishment) uses are 'The Gun' public house, 90 m. away on Brushfield Street; and 'The Golden Heart' 120 m. away on Commercial Street. The Horner Building of the Old Spitalfields Market contains residential accommodation, the nearest being located above the 'Teasmith Café' on Lamb Street, approximately 16 m. away, with a blank gable wall facing the application site.
- 5.5. Diagonally opposite, Dandridge House No. 31 Lamb Street, accommodating sixteen flats, lies 27 m.north east of the application site. Residential accommodation in Vanburgh House and Priory House, Folegate Street, lie 50 m. and 63 m. respectively north of the application site separated from it by Spital Square and Elder Gardens.
- 5.6. The site lies within the Central Activities Zone (CAZ). It abuts but does not lie within the Fournier Street / Brick Lane Conservation Area. The adjoining Old Spitalfields Market Building is listed Grade 2.
- 5.7. The site is highly accessible by public transport with a PTAL index 6b. It is located close to Liverpool Street Main Line and Underground stations and Shoreditch High Street Overground station. London Transport buses serve Bishopsgate and Commercial Street.

## **6. POLICY FRAMEWORK**

- 6.1 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:

- 6.2. National Planning Policy Framework(NPPF)

Chapter 2. Town centres.

- 6.3. The London Plan 2011

Policy 2.11 - Strategic functions for the CAZ.

Policy 4.6 – Support for and enhancement of arts, culture, sport and entertainment provision.

Tower Hamlets Core Strategy 2010



- 6.4. SP01 - Refocusing on our town centres  
SP03 – Creating healthy and liveable neighbourhoods  
Annex 9 'Delivering Placemaking.'

6.5. Managing Development Document 2013

The Adopted Policies Map shows the application site lying within a Preferred Office Location within the CAZ.

DM1 - Development within the town centre hierarchy.  
DM25 – Amenity.

**Other material considerations**

6.6. Proposed Brick Lane Cumulative Impact Zone (Saturation Zone)

Saturation zones were introduced by the Licensing Act in 2003, as a response to crime, disorder and nuisance arising from the cumulative effect of having a number of licensed premises operating in close proximity to each other in a small area. A saturation zone can only be introduced where there is evidence to show that it is *'appropriate and necessary'* to introduce a policy to control the growth of licensed premises.

- 6.7. The Council has recently undertaken consultation with local residents, business and interested bodies on the possible introduction of a Brick Lane Cumulative Impact Zone. The application site lies within the proposed zone towards its western edge. The policy has not been agreed by Members- see comments from Licencing at para. 7.3 below.

The Town and Country Planning (General Permitted Development) (Amendment) (England) Order 2013

- 6.8. From 31<sup>st</sup>May 2013, for a period of up to two years, Class D the above Order grants planning permission for development consisting of a change of use of 150 sq. m of a building and any land within its curtilage—

(a) to a flexible use falling within either Class A1 (shops), Class A2 (financial and professional services), Class A3 (restaurants and cafes) or Class B1 (business) of the Schedule to the Use Classes Order,

(b) from a use falling within Classes A1 (shops), A2 (financial and professional services), A3 (restaurants and cafes), A4 (drinking establishments), Class A5 (hot food takeaways), B1 (business), D1 (non-residential institutions) and D2 (assembly and leisure).

During this period the site retains its existing use class and the Order requires the site to revert to its previous lawful use no later than the end of the two year period.

**7. CONSULTATION**

7.1. Transportation and Highways

No objection. The area has excellent public transport accessibility where A4 uses are prevalent. The proposed change of use would not result in a material impact on the local

transport or the highway network.

## 7.2. Environmental Protection

Agrees with the methodology in the submitted Noise Impact Assessment with recommendations to minimise noise impact having been adopted by the applicant. If necessary, Environmental Protection can use primary legislation to abate any nuisance. Recommends that any planning permission is conditioned as follows:

- 1) Any music noise emanating from the site must not be audible at the nearest affected facade.
- 2) Noise of mechanical plant or equipment must be at least 10dB below the recorded background noise level.
- 3) The hours of operation should be restricted to protect the amenity of local residents. Recommends the terminal hour should be 9.00 pm or 10.00 pm.
- 4) Loading and unloading should be restricted to: Monday to Friday (8.00 am to 6.00 pm); Saturday (8.00 am to 1.00 pm); and not at all on Sunday & all public holidays.
- 5) Any external usage for eating or drinking should have a terminal hour of 9.00 pm.
- 6) A maximum of 5 smokers allowed outside at any one time.

## 7.3. Licensing

There is a current licence in place at the premises:

Alcohol: Monday to Saturday 10:00 hrs to 23:00 hrs Sunday 10:00 hrs to 22:00 hrs.  
Opening hours are Monday to Saturday 10:00 hrs to 23:00 hrs, Sunday 10:00 hrs to 22:00 hrs.

Licensing is unable to use the proposed Brick Lane Saturation Policy to object to planning applications. Although a 'Cumulative Impact Policy' has been consulted upon, it has yet to be adopted by the Council.

## 7.4. Metropolitan Police Crime Prevention Officer

No representations received.

## 8. **LOCAL REPRESENTATION**

8.1 212 neighbouring properties within the area shown on the map appended to this report were notified about the application and invited to comment. A site notice was also displayed and the application advertised in East End Life. To date, the number of individual representations received from neighbours is as follows:

No of individual responses:	45	Objecting:	41	Supporting:	4
No of petitions received:	0				

8.2. Grounds of objection may be summarised as:

- The site faces residential areas on two sides - on Lamb Street and above the Old Market. The premises are large and there would be serious adverse impact on the amenity of local residents due to the congregation of potentially large numbers of

customers (including smokers) on Lamb Street and Crispin Place. The corner position makes the containment of people and noise all but impossible. The surrounding tall stone buildings amplify and echo noise.

- Increased anti-social behaviour, crime, disorder and rubbish.
- Inadequate soundproofing. Noise leakage from the premises, including music.
- Disturbance from customers leaving after hours.
- Erosion of the quality of life.
- Spitalfields already has abundant drinking establishments. The area is saturated with four public houses, two wine bars and numerous licensed restaurants within 100 yards of the property. The Council should implement a Saturation Policy limiting the number of bars in Spitalfields.
- "Degeneration." The Council should decide whether the area is to be gentrified or become "party central."
- Unwelcome change to the area's atmosphere. The market should remain a venue for restaurants not bars. If a bar is permitted, other A3 units in Bishops Square could seek a change of use to A4.
- Class A3 of the Use Classes Order was disaggregated and drinking establishments are materially different from restaurants.
- Closing time should be 10.00 pm.
- No additional employment.

8.3. Non material objections raised by local residents are:

- Property values may deteriorate.
- There should be alternative type of restaurant/food.

8.4. Grounds of support may be summarised as follows:

- Proposal would assist a thriving local economy and create jobs.
- Historically, Spitalfields has been a bustling market area full of people food and drink. Anyone moving to the area should embrace the character not try to change it.
- Many traditional pubs have closed. The proposal would be a worthy addition to the area and benefit the market.
- There are no flats above the premises. Those in the area are some distance away and would not be disturbed by people within the pub. People leaving the pub would be no different from those leaving the bars within the existing restaurants.

8.5. Representations have also been received from the following organisations:

#### Spitalfields Market Tenants Group

Objects. Concerned about the number of applications to sell alcohol in Spitalfields. Increasing rates of anti-social behaviour. The premises has a big outdoor area that would allow large numbers of noisy drinkers to congregate, particularly during the summer, disturbing flats above. The Council should promote a wider range of shops.

#### Spitalfields Society

Objects. Negative impact on the amenity of local residents. The premises are large, able to accommodate "excessive" numbers of customers, and surrounded by the open spaces of Lamb Street and Crispin Place that would enable large numbers of drinkers to congregate.

The premises does not have adequate soundproofing. There is no precedent in the market for premises trading only as a bar. Spitalfields residents suffer high levels of anti-social behaviour and the spread of pure drinking to the Market area would make matters worse.

St. George Residents Association (Representing 193 occupiers of Lamb Street, Elder Gardens and Folgate Street)

Objects. Concerned about the prospect of "vertical drinking" (i.e. standing) caused by a bar in this "acoustically reflective" environment that would focus noise into nearby homes and reflect it around the locality. Smoking is not permitted in Bishops Square so smokers will congregate on pavements and Elder Gardens close to homes. A3 and A4 Uses are materially different. It would be appropriate to apply the much awaited Saturation Policy for the number of bars permitted in Spitalfields.

Allen and Overy (Occupier of One Bishops Square above 4 Crispin Place)

No objection but their accommodation should not be disturbed by music. The external area is within a no smoking zone. Patrons may move away into Lamb Street to smoke. This should be managed by the applicant.

8.6. The Noise Impact Assessment by WSP was submitted after the first round of public consultation. Following its submission, re-consultation has been undertaken with all local residents and organisations that initially objected.

8.7. The Assessment considers the use and impact of the outside seating areas. The North Terrace comprises 70 sq. m. and accommodates nominally 32 seated customers. WSP assume a 'worst case scenario' of a similar number of standing customers (i.e. a density of 1 patron per available sq. m.). A total of 64 patrons. The area outside the south façade comprises 90 sq. m. accommodating nominally 48 seated customers with an estimated 96 customers under the worst case scenario. This results in a combined maximum estimate of 150 outdoor customers.

8.8 At the time of writing, one further representation had been received for a local resident as follows:

- Challenges WSP's assumption that A3 premises have the same clientele and occupancy as A4. Believes the A4 proposal is significantly different from the current use and considers WSP underestimate the density of patrons standing outside by a factor of between 2 to 4 times.
- Consequently, the noise levels are underestimated.

Asks that the Planning Committee rejects the application. Should permission be granted requests the following conditions:

- No external vertical drinking or consumption of alcohol outside without food.
- All external areas controlled by the tenant to be vacated by 20.00 hours except for those eating food.
- There should be a maximum number of people allowed outside.

Officer comment: The objector's estimate of outside use would result in between 320 to 578

outdoor patrons which appears excessive. The applicant has agreed to close the northern terrace (closest to residential accommodation) at 20.00 hours. A cap on the number of patrons outside and differentiated by whether they stand or have food would not be enforceable under planning legislation.

## **9. MATERIAL PLANNING CONSIDERATIONS**

9.1 In 2005 the Government split the then A3 (Food and drink) use class into Class A3 (Restaurants/ cafes), Class A4 (Drinking establishments) and Class A5 (Hot food take away). Planning permission is now consequently required for the change of use of Unit 4 Crispin Place from A3 to A4. The main planning issues raised by the application that the Committee must consider are land use and the effect on the amenity of local residents.

### **Issue 1 - Land Use**

#### NPPF

9.2 Chapter 2 of the NPPF is concerned to ensure the vitality of town centres. Paragraph 23 requires LPA's to promote competitive town centre environments and sets out policies for the management and growth of town centres. Authorities should:

- Recognise town centres as the heart of their communities and pursue policies to support their viability and vitality;
- Promote competitive town centres that provide customer choice.
- Allocate a range of suitable sites to meet the scale and type of town centre uses. It is important that needs for main town centre uses are met in full and not compromised by limited site availability.

9.3 A drinking establishment is an appropriate town centre use and the proposed change of use accords with the NPPF in principle.

#### The London Plan 2011

9.4 London Plan policy 2.11 provides Strategic Functions for the CAZ. Boroughs should recognise, improve and manage the strategic clusters of night time activities in and around the CAZ in line with policy 4.6. Para 2.49 says the CAZ night time economy presents particular challenges, meeting the needs of Londoners on a substantial scale, as well as visitors.

9.5 London Plan policy 4.6 identifies strategic clusters of night time activities, providing guidance on the balance to be struck in managing tensions between these and other uses. Boroughs Local Development Frameworks (LDFs) should:

- Develop innovative approaches to managing pressures on high volume visitor areas and their environments,
- Identify, manage and co-ordinate strategic and more local clusters of evening and night time entertainment activities to:
  - address need,
  - provide public transport, policing and environmental services; and
  - minimise impact on other land uses taking account of the cumulative effects of night

time uses and saturation levels beyond which they have unacceptable impacts on the environmental standards befitting a world city and quality of life for local residents.

- 9.6. Para. 4.36 of the Plan adds that London is a great city for night time entertainment and socialising and the night time economy forms an important part of London's economy. The Mayor encourages a supportive approach to planning these diverse night time activities in appropriate locations. LDFs should recognise and address the opportunities and challenges posed by the strategically important clusters of night time activities concentrated in some of the main town centres and parts of the CAZ.
- 9.7. Para 4.37 says boroughs should manage the night time economy through an integrated range of measures including planning, licensing, policing, transport and street cleaning. This requires the co-ordination and co-operation of local authorities and their partners, as well as residents, businesses and their customers. It is essential to manage unacceptable cumulative impacts and saturation of night time economy activities. When addressing saturation, licensing-based policies can be used to form part of an integrated package of measures. When managing cumulative impact, boroughs are encouraged to include policies in LDFs to influence the scale and nature of night time economy development, regarding the use class, time of operation, size of premises and proportions of retail frontages in different night time economy areas.
- 9.8. Para. 4.38 says that local circumstances will determine whether night time economy activities should be encouraged to develop in a specific zone, or be spread more widely. In large centres the development of a night time economy 'quarter' or zone may be more appropriate for management purposes and enable an appropriate mix of uses to be encouraged.

#### Tower Hamlets Core Strategy 2010 (CS)

- 9.9. The Vision for Spitalfields at Annex 9 'Delivering Placemaking' of the Core Strategy is that Spitalfields will continue to be a vibrant, diverse and mixed use area. Uses should reinforce the city fringe character of small shops and businesses alongside residential, while managing negative impacts of development adding to the vibrancy, economy and character of the area and using planning management to protect residential amenity in the area.
- 9.10. Amongst the 'Priorities' for Spitalfields (also Annex 9 'Delivering Placemaking) Priority 4 is:
- *"To protect residential amenity using night-time environmental, safety, licensing and planning management."*

Amongst the development 'Principles' for Spitalfields Principle 3 is:

- *"To promote a mix of uses that successfully reinforce the city fringe character of small shops and businesses alongside residential."*
- 9.11. Core Strategy spatial policy SP01'Refocusing on our town centres'aims to apply London Plan policy on the CAZ. It seeks to ensure that town centres are active, well-used and safe during the day and night through appropriate uses. Policy SP01 2 encourages evening and night time economy uses that contribute to the vibrancy, inclusiveness and economic vitality of the town centre hierarchy,ensuring such uses are:

- Not over-concentrated in areas where they will have a detrimental impact on local people (SP 01.2c i);
  - Of a balanced provision to cater for varied needs (SP01.2c ii); and
  - Complementary to existing uses and activities (SP01 2c iii).
- 9.12. CS spatial policy SP03.1d seeks to reduce the over-concentration of any use type where this detracts from the ability to adopt healthy lifestyles.

Tower Hamlets Managing Development Document 2013(MDD)

- 9.13. MDD policy DM1 sub policy 4 states that to further enhance the vitality and viability of town centres, restaurants, public houses and hot food takeaways (A3-A5 uses) will be directed towards the CAZ provided they do not result in overconcentration of such uses.
- 9.14. MDD para.1.8 adds that a dynamic mix of uses is beneficial to the borough's town centres including the CAZ.
- 9.15. In principle, the proposed A4 use accords with the NPPF, the London Plan, the Council's Core Strategy and the MDD. All these documents recognise A4 uses as appropriate within, and should be directed towards, the CAZ.
- 9.16. The land use issue is therefore whether the change of use would result in overconcentration of A3-A5 uses.MDD policy DM1 sub policy 4 does not define "*overconcentration*" within the CAZ.
- 9.17. All four of the units within the Bishops Square development on the west side of Crispin Place are used for A3 purposes but none are used for A4 purposes. Thus, there is no concentration of A4 uses within Bishops Square or the immediate area. Further, the application does not propose the introduction of a "*new*" A3-A4 use. Further, if planning permission is refused it would not necessarily mean that Unit 4 would change its use to a non-A3, A4 or A5 use,rather it appears more likely that the existing A3 use would remain.
- 9.18. The variation of condition 11 of the 2002 planning permission (PA/04/1683) stipulates that no more than 42% of the A1/A3 floorspace within the Bishops Square development should be used for A3 purposes. The land owner confirms this is being adhered to, save for Unit 3 Crispin Place which operates under a separate permission.
- 9.19. This, together with Part 3 Class E of the General Permitted Development Order 1995 (which allows a change from A1 to A3 and vice versa during a 10 year period from the completion of the building in 2005/06), allows adjacent units to be used for A3 purposes provided the overall ceiling of 42% is not breached.
- 9.20. Given the planning history of Bishops Square, that limits non shop floorspace to a percentage of the overall floorspace not by location, no land use objection is raised. However, given the disaggregation of the A3 (Food and drink) use class in 2005, it is recommended that any planning permission, should be subject to a legal agreement stipulating that a maximum of 42% of the A1/A3 floorspace permitted by the Council's planning permission dated 19 November2002 Ref. PA/02/00299, excluding 3 Crispin Place, should be used for purposes falling within Class A3 or A4 of the current Town and Country Planning (Use Classes) Order 1985.The applicant and land owner are agreeable to this.

- 9.21. Such an agreement would extend beyond the unit under consideration, but it is felt that the previous conditions for the wider Bishops Square development needs to be supplemented by an agreement to provide certainty as to the permitted uses, now that the use classes have changed. As the existing condition is now unsatisfactory it is in the Council's interests to take this forward. It also makes sense for a section 106 agreement to cover the wider development as opposed to this being done in a piecemeal way.

## **Issue 2 - Amenity**

- 9.22. ODPM Circular 3/2005 advised that the disaggregation of the former A3: Food and drink use class would give local planning authorities a greater degree of precision in making development control decisions, with a clearer view of the likely and continuing impact of those uses. The new use classes were intended to enable local planning authorities to secure a satisfactory balance in an area between the numbers of restaurants/cafés, pubs/bars, and takeaways/fast food premises. This was to help to ensure that no one use predominates to the detriment of local amenity or the vitality of the area. Local planning authorities were asked to treat applications on their merits with regard to the potential environmental impacts. The more specific use classes were intended to give greater clarity in determining the effects on amenity of particular uses.

### Tower Hamlets Core Strategy 2010

- 9.23. 'Priorities' for Spitalfields at Annex 9 'Delivering Placemaking' include
- *"To protect residential amenity in the area using night-time environmental, safety, licensing and planning management particularly in and around Brick Lane."*

### Tower Hamlets Managing Development Document 2013

- 9.24. MDD policy DM25 'Amenity' requires development 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 by inter alia not creating unacceptable levels of pollution including noise, odour and fumes.

- 9.25. The applicant has suggested the following conditions should permission be granted:

- Only background music
- Restrict customers leaving the premises with alcohol.
- Restrict use of the Northern Terrace after 8 pm.
- Appropriate signage asking customers to respect local residents.
- Attend the neighbour meetings organised by the Spitalfields' Management Team.
- To provide a Management Plan including management's contact details.

- 9.26. The adjoining restaurant Nos. 2 and 3 Crispin Place both have outdoor seating areas. No. 2 is licenced to sell alcohol from 08.30 to 23.30 and the licence is conditioned so that the external seating area shall not be used after 22:00 hours on Monday to Thursday and 23:00 hours on Friday and Saturday. No. 3 Crispin Place is licenced to sell alcohol from 10:00 hours to midnight and conditioned so that the external area shall only be used on Sundays to Thursdays until 22:00 hours and Friday and Saturdays until 23:00 hours.

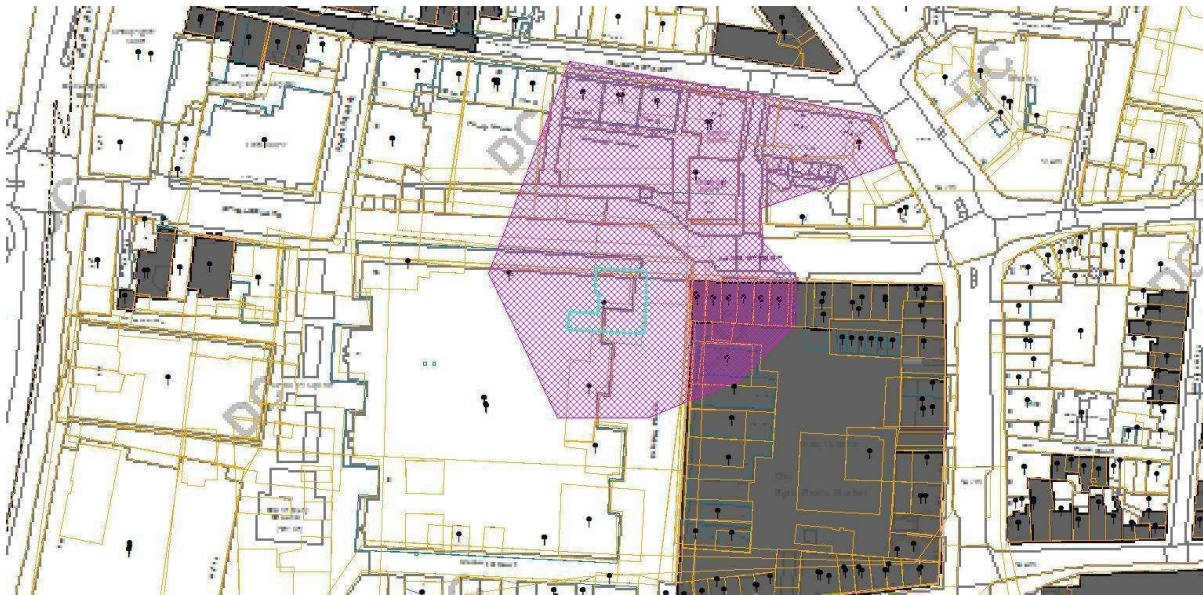


- 9.27. Within the Noise Impact Assessment, WSP Acoustics has carried out a long-term environmental noise survey at a location representative of the nearest noise sensitive receptor in order to establish existing ambient noise levels in the vicinity.
- 9.28. Existing ambient noise levels have been found not to significantly vary over typical day, evening and night-time periods or from weekday to weekend periods. This is mainly due to the proximity of the Spitalfields Traders Market, and general exposure and location of the area within central London.
- 9.29. An assessment of potential internal customer activity has determined that the existing building fabrication is adequate to contain related noise levels such that they will not typically be audible at the nearest residential dwellings.
- 9.30. No live music or entertainment events would normally take place within the premises. Any music noise would be at background level, i.e. lower than the internal customer activity levels and hence, not typically audible at the nearest residential dwellings. It is recommended this is secured by condition.
- 9.31. Detailed assessments have been carried out for the potential noise levels that may arise from the use of external seating areas. Where applicable, measures to pro-actively control customer noise have been discussed and the resultant impact is deemed to be within acceptable tolerances of the existing ambient noise levels in the vicinity.
- 9.32. Noise associated with the use of mechanical ventilation equipment would not change from the current A3 use. Any additional mechanical plant requiring planning permission would be assessed as a stand-alone application in accordance with the Council's planning requirements.
- 9.33. Deliveries to the proposed A4 premises would not change from the existing delivery patterns of the A3 use. Noise levels associated with deliveries would represent no change over the current levels and condition limiting loading hours is recommended. Furthermore, Spitalfields Market Management have adopted training and control measures in place to ensure deliveries do not give rise to noise and other potential nuisances at surrounding residential premises.
- 9.34. WSP Acoustics consider that the proposals represent a very good acoustic standard, typically at the lower end of the range of noise levels associated with A4 use premises.
- 9.35. Based on the results of the assessments, in the context of the location of the proposed A4 premises and the mitigation measures offered to control external noise levels, Officers consider that there would not be a significant noise impact arising from the change of use from A3 to A4. Environmental Protection concur drawing attention to the Council's legislative safeguards in place.

## **10. CONCLUSION**

- 10.1 All 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 decisions are set out in the RECOMMENDATIONS at the beginning of this report.

# SITE LOCATION PLAN



# Agenda Item 8

<b>Committee:</b> Development	<b>Date:</b> 14 <sup>th</sup> August 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 8
<b>Report of:</b> Corporate Director Development and Renewal		<b>Title:</b> Other Planning Matters	
<b>Originating Officer:</b>		<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 matters other than 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. PUBLIC SPEAKING

- 3.1 The Council's Constitution only provides for public speaking rights for those applications being reported to Committee in the "Planning Applications for Decision" part of the agenda. Therefore reports that deal with planning matters other than applications for determination by the Council do not automatically attract public speaking rights.

## 4. RECOMMENDATION

- 4.1 That the Committee take any decisions recommended in the attached reports.

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**LOCAL GOVERNMENT ACT 2000 (Section 97)**  
**LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 8**

Brief Description of background papers:  
See individual reports

Tick if copy supplied for register:

Name and telephone no. of holder:  
See individual reports

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# Agenda Item 8.1

<b>Committee:</b> Development	<b>Date:</b> 14 August 2013	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal  <b>Case Officer:</b> Pete Smith	<b>Title:</b> Planning Appeals
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## 1. PURPOSE

- 1.1 This report provides details of town planning appeal outcomes and the range of planning considerations that are being taken into account by the Planning Inspectors, appointed by the Secretary of State for Communities and Local Government. All Members of the Council receive a regular monthly email update of appeals received by the Council.
- 1.2 The report covers all planning appeals, irrespective of whether the related planning application was determined by Development Committee, Strategic Development Committee or by officers under delegated powers. It is also considered appropriate that Members are advised of any appeal outcomes following the service of enforcement notices.
- 1.3 A record of appeal outcomes will also be helpful when compiling future Annual Monitoring Reports.

## 2. RECOMMENDATION

- 2.1 That Committee notes the details and outcomes of the appeals as outlined below.

## 3. APPEAL DECISIONS

- 3.1 The following appeal decisions have been received by the Council during the reporting period.

<b>Application No:</b>	<b>PA/11/01495</b>
<b>Site:</b>	<b>4 Wilkes Street E1 6QF</b>
<b>Proposed Development:</b>	<b>Erection of a roof extension to provide additional office space along with the erection of a timber screen to perimeter of roof terrace</b>
<b>Decision:</b>	<b>REFUSE PLANNING PERMISSION(Development Committee decision – Officer Recommendation - GRANT)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector’s Decision</b>	<b>ALLOWED</b>

- 3.2 As Members may be aware, this application generated a significant level of

local opposition on grounds of the impact of the extension and roof terrace on the character and appearance of the conservation area and the impact of the works on residential amenity nearby, in terms of loss of privacy daylight and sunlight. The Planning Inspector considered two main issues -

- The impact on the character and appearance of the conservation area
- The effect of the residential amenity of neighbouring occupiers

3.3 In the first issue, whilst the Inspector noted that the property was situated in a sensitive part of the Fournier Street/Brick Lane Conservation Area, sandwiched between two listed buildings, he noted that the appeal premises was a flat roofed three storey factory related building, probably built sometime in the 1960's. He felt that the proposed mansard roof would respect the proportions of the neighbouring listed buildings and the use of metal framed windows would respect the detailing of the existing building. He also noted that there were a number of roof terraces in the immediate vicinity enclosed by a variety of full height walls fences, metal railings, glazing and planting. He concluded that the proposed development would preserve the character and appearance of the conservation area and the setting of adjoining listed buildings.

3.4 In terms of residential amenity effects she concluded that the mansard roof and privacy screen would be consistent with the height of surrounding buildings and she concluded that outlook from neighbouring properties would not be materially affected. She also concluded that the proposed development would have a negligible impact on daylight and sunlight to Fournier Street properties. She noted some impact on properties fronting Princelet Street, but concluded that any further overshadowing would be restricted to a very short period of time during the year and overall, she felt that the effects would be negligible.

3.5 The Inspector noted that the terrace would be close to some windows of neighbouring properties and without the privacy screen, proposed she concluded that there would have been serious loss of privacy to neighbours. However she was satisfied that the proposed privacy screen would serve to mitigate the impact along with the hours. She decided to impose conditions limiting the use of the terrace between 9am and 6pm, limiting the capacity of the roof terrace to 20 people at any time and restricted the use of amplified music on the roof terrace. She limited any cooking taking place on the roof terrace (BBQs for example) as smoke would easily enter neighbouring property. The present use of the property is offices and she was satisfied that on this basis, the use of the terrace (with the conditions imposed) would be unlikely to materially affect residential in terms of noise and overlooking.

3.6 The remaining elements of this decision dealt with conditions to be imposed and interestingly, she chose to impose a condition to take away any opportunity to make use of existing flexibility arrangements between officers and A 3 uses (brought about by changes to the General Permitted Development Order. This is something that we will need to consider in relation to other cases where the GPDO provisions might apply.

3.7 The appeal was ALLOWED

**Application No:**

**PA/12/00951**

**Site:**

**82-102 Hanbury Street, London E1**

**Proposed Development:**

**Erection of a 5 storey building to created 6 commercial units on ground**

	<b>and first floor and nine flats on the upper floors</b>
<b>Council Decision:</b>	<b>REFUSE PLANNING PERMISSION (delegated decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>DISMISSED</b>

- 3.8 The main issue in this case was the effect of the proposed development on the character and appearance of the Fournier Street/Brick Lane Conservation Area and lack of amenity space for the propose residential units.
- 3.9 The Council had previously granted planning permission for a more limited redevelopment of the site (less residential units and a lower building – excluding a mansard roof structure).
- 3.10 The Planning Inspector concluded that as a number of neighbouring properties were designed with flat roof detailing, the introduction of a mansard roof element to the proposed redevelopment would have appeared as a stark and incongruous element to the streetscene ad would have detracted from the other elements of the proposed building design.
- 3.11 The Inspector also agreed with the Council over the lack of amenity space provision for the proposed residential units. He noted that six of the units would have had no private amenity space and the remaining three units would have only had small terraces. Whilst the previously approved scheme did also had no private amenity space for the flats, the Inspector acknowledged that this previous application as determined prior to the adoption of the Council's Core Strategy. He recognised that the adoption of the Core Strategy and the Managing Development Document represented a change in circumstances.
- 3.12 The appeal was DISMISSED.

<b>Application No:</b>	<b>PA/12/01764</b>
<b>Site:</b>	<b>Dennis House, 553 Roman Road, E3</b>
<b>Site:</b>	<b>Erection of telecommunications apparatus (GRP chimney stacks and equipment cabins).</b>
<b>Council Decision:</b>	<b>REFUSE PLANNING PERMISSION (Delegated decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>ALLOWED</b>

- 3.13 The main issues in this case was the impact of the proposed installation on the character and appearance of the Roman Road Market Conservation Area.
- 3.14 The Inspector took a balanced view in this particular case. Whilst he acknowledged that the proposed GRP chimneys would be visible and would represent a noticeable and unusual feature, he concluded that the chimneys would result in less than substantial harm and would have a neutral effect on the character and appearance of the conservation area. He recognised also that the proposed development would result in enhanced 2G and 3G coverage for the area and network.
- 3.15 With lack of any objective evidence to support local fears that the installation will have implications for the health of local school children and bearing in mind

that the application was accompanied by a valid ICNIRP Certificate, the Inspector concluded that local residents concerns would not have been sufficient to justify refusal planning permission.

- 3.16 The appeal was ALLOWED. Conditions were imposed requiring detailed consideration of the colouring of the GRP shrouds.

<b>Application No:</b>	<b>PA/12/01614</b>
<b>Site:</b>	<b>132 Commercial Road E1</b>
<b>Site:</b>	<b>Retention of replacement shop front, replacement windows to first and second floor levels and rendering of exterior elevations.</b>
<b>Council Decision:</b>	<b>REFUSE PLANNING PERMISSION (Delegated decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>PART DISMISSED/PART ALLOWED</b>

- 3.17 The property is located within a mixed commercial area, opposite the Myrdle Street Conservation Area. The Inspector agreed with the Council that the previous brickwork (now rendered over) made a significant contribution to the character and appearance of the property by adding texture, form, colour and detailing around the windows. He also acknowledged that whilst the previous windows were not original, they respected the opening size and horizontal lines of the original sash windows

- 3.18 The Inspector concluded that the rendered walls were bland and characterless and the replacement windows failed to respect the proportions of the host building, both in terms of size and the introduction of strong vertical divisions. Similarly, he concluded that the replacement shopfront is featureless, lacking identity with the roller shutter box unduly bulky. He also referred to the neighbouring property (the other half of the semi-detached pair) which has also been modified in a similar vein without the benefit of planning permission

- 3.19 The Inspector was less concerned about the security gate which forms an appropriate visual link between the appeal property and 134 Commercial Road.

- 3.20 The appeal was DISMISSED apart from the installed security gate. The Council's refusal related to the replacement windows and the rendered elevation and there was little concern about the security gate in any case.

- 3.21 This is a very worthwhile decision and will clearly be a material consideration when the Planning Inspectorate considers a pending appeal in respect of the recently issued enforcement notice covering similar works to 130 Commercial Road.

<b>Application No:</b>	<b>ENF/07/00222</b>
<b>Site:</b>	<b>land at 388 Hackney Road, London E2</b>
<b>Site:</b>	<b>Unauthorised installation of shop front, roller shutter and guard rails and the erection of a breeze block extension enclosing the rear yard area.</b>
<b>Council Decision:</b>	<b>INSTIGATE ENFORCMENT ACTION</b>



<b>Appeal Method:</b>	<b>(Delegated decision)</b>
<b>Inspector's Decision</b>	<b>WRITTEN REPRESENTATIONS DISMISSED AND ENFORCMENT NOTICE UPHELD</b>

3.22 The appeal was not made under Ground a) (that the proposal is acceptable in planning permission) as the required planning fee was not paid by the appellant within the prescribed period. The enforcement notice was issued back in October 2011.

3.23 The property is a part single, part four storey building and the single storey element projects out from the frontages onto Hackney Road. The property had previously been in use as a public house but in around 2006, the property had been converted to a restaurant. In terms of the changes to the shopfront and related works, the Inspector did not accept that they replaced previous features on a like for like basis and agreed with the Council that the works represented a breach of planning control. He took a similar view in respect of the rear extension works and alterations to boundary walls.

3.24 The appellant argued that the works required by the Notice were excessive with the costs of the works disproportionate to the benefit obtained. The Planning Inspector did not agree with this view and felt that the need to safeguard the environment and conservation area character was required. The Council has now served a separate enforcement notice in respect of the use of part of the property as a shisha lounge and further works to the rear of the property.

<b>Application No:</b>	<b>ENF//12/00054</b>
<b>Site:</b>	<b>80 Brick Lane, E1</b>
<b>Site:</b>	<b>replacement shopfront and display of an internally illuminated projecting sign and fascia sign.</b>
<b>Council Decision:</b>	<b>INSTIGATE ENFORCMENT ACTION</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>APPEAL DISMISSED AND ENFORCMENT NOTICE UPHELD</b>

3.25 This property is situated in the Fournier Street/Brick Lane Conservation Area and the Inspector concluded that the height of the installed shopfront, the absence of traditional shopfront detailing and the use of a large expanse of clear plate glass all combine to result in a shopfront which is inappropriate to this 19<sup>th</sup> Century building located within a conservation area. The Council is now taking separate action against the unauthorised advertisements through the use of an advertisement removal notice.

<b>Application No:</b>	<b>ENF/12/00159</b>
<b>Site:</b>	<b>15-17 Leman Street E1</b>
<b>Site:</b>	<b>Installation of a pay phone kiosk on the highway.</b>
<b>Council Decision:</b>	<b>REFUSE PLANNING PERMISSION (Delegated decision)</b>
<b>Appeal Method:</b>	<b>WRITTEN REPRESENTATIONS</b>
<b>Inspector's Decision</b>	<b>APPEAL DISMISSED AND ENFORCMENT NOTICE QUASHED</b>

- 3.22 This case revolved around whether the Council refused prior approval within the prescribed period, the appellant's argument being that if the Council determined the case outside the prescribed prior approval period, the Council would be in no position to enforce against the installation. The issue was whether the appellant received the refusal of prior notification within the prescribed 56 day period.
- 3.26 The refusal of prior approval was received by hard copy post outside the 56 day period although it was agreed by the parties that the Council sent the letter electronically on the 23 December – prior to the expiration of the 56 days (sent at 16.32 hours) on that day. The appellant argued that the email was received outside business hours and the Inspector accepted the appellant's arguments that their business hours end 16.30 hours. With the closure of offices during the Christmas break, the Inspector acknowledged that the next working day would have been 28<sup>th</sup> December (outside the 56 day period).
- 3.27 The Inspector therefore reached a view that there was no breach of planning control, in view of the prior notification being received outside the 56 day period.
- 3.28 This is an unfortunate outcome, especially as it is somewhat debatable that working days are concluded at 16.30 hours.

<b>Application No:</b>	<b>PA/12/02149</b>
<b>Site:</b>	<b>24-26 Bow Road, E3</b>
<b>Site:</b>	<b>Mixed use redevelopment comprising parking and storage at basement level, retail at ground floor, offices at first floor level and residential above within a 5 storey built envelop</b>
<b>Council Decision:</b>	<b>APPEAL                  AGAINST                  NON DETERMINATION</b>
<b>Appeal Method:</b>	<b>HEARING</b>
<b>Inspector's Decision</b>	<b>APPEAL DISMISSED</b>

- 3.29 This appeal related to an application for outline planning permission with matters of scale and layout to be determined at outline stage). Whilst the Council was generally content with the planning merits of the proposed development, the appellant argued that he was in no position to enter into planning obligations required by the Council. The Council had previously submitted to the Hearing a draft legal agreement covering such matters as affordable housing, contributions towards various faculties and car free development.
- 3.30 The Inspector agreed with the Council that with the absence of any mechanism to ensure the delivery of affordable housing and any evidence of viability, the failure to provide affordable housing would have been contrary to policy.
- 3.31 Turning to issues associated with the financial contributions towards infrastructure, the Inspector highlighted a weakness in the Council's argument that it was unable to indicate how or where any payments would be spent – to ensure that the sums sought were directly related to the proposed development. He found the lack of detail around community facilities and public realm less clear cut, compared to educational and health related facilities,

especially as idea stores, libraries and public open space is likely to be more localised. He also considered that employment and training contributions paid on commencement of development would not assist during the construction of the construction phase as training would take time. He therefore concluded that the implications of the scheme in terms of job prospects would be insignificant. Therefore, whilst the Inspector was satisfied that whilst the appellants failure to deal adequately with issues of affordable housing and the infrastructure requirements dents associated with educational and health related facilities were critical, he was far from convinced that the harm arising from non-payment of other contributions were critical to securing sustainable development.

- 3.32 In terms of the other issues (heritage issues and the effect of the development on neighbours) the Planning Inspector concluded that the existing building, whilst locally listed, has been heavily compromised by alterations and as a consequence, makes a very limited contribution to the environment architecturally, historically and contextually. He therefore accepted that the demolition of the building would be acceptable. On the second issue, the Inspector concluded that the development would result in harm to residents of Langthorne House in terms of daylight and sunlight.
- 3.33 To conclude, the Inspector felt that the harm caused by the failure to provide affordable housing, the failure to deal with affordable housing requirements and the requirement to contribute towards secondary school places, health facilities and transportation objectives and the harm caused in terms of daylight and sunlight reaching Langthorne House represented sound reasons to dismiss the appeal and refuse planning permission.

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