

# DEVELOPMENT COMMITTEE

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**Wednesday, 9 April 2014 at 7.00 p.m.**

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

**The meeting is open to the public to attend.**

**Members:**

**Chair:** Councillor Helal Abbas

**Vice Chair :**

Councillor Judith Gardiner, Councillor Kosru Uddin, Councillor Khaled Uddin Ahmed, Councillor Tim Archer, Councillor Gulam Robbani and Councillor Harun Miah

**Deputies:**

Councillor Rajib Ahmed, Councillor Denise Jones, Councillor Carli Harper-Penman, Councillor Zara Davis, Councillor Peter Golds, Councillor Md. Maium Miah and Councillor Fozol Miah

[The quorum for this body is 3 Members]

**Public Information.**

The deadline for registering to speak is **4pm Monday, 7 April 2014**

Please contact the Officer below to register. The speaking procedures are attached.

The deadline for submitting material for the update report is **Noon Tuesday, 8 April 2014**

**Contact for further enquiries:**

Zoe Folley, Democratic Services,  
1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, E14 2BG  
Tel: 020 7364 4877  
E-mail: [zoe.folley@towerhamlets.gov.uk](mailto:zoe.folley@towerhamlets.gov.uk)  
Web: <http://www.towerhamlets.gov.uk/committee>

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## Public Information

### **Attendance at meetings.**

The public are welcome to attend meetings of the Committee. However seating is limited and offered on a first come first served basis.

### **Audio/Visual recording of meetings.**

No photography or recording without advanced permission.

### **Mobile telephones**

Please switch your mobile telephone on to silent mode whilst in the meeting.

### **Access information for the Town Hall, Mulberry Place.**



**Bus:** Routes: 15, 277, 108, D6, D7, D8 all stop near the Town Hall.

**Docklands Light Railway:** Nearest stations are East India: Head across the bridge and then through the complex to the Town Hall, Mulberry Place

**Blackwall station:** Across the bus station then turn right to the back of the Town Hall complex, through the gates and archway to the Town Hall.

**Tube:** The closest tube stations are Canning Town and Canary Wharf .

**Car Parking:** There is limited visitor pay and

display parking at the Town Hall (free from 6pm)

If you are viewing this on line:([http://www.towerhamlets.gov.uk/content\\_pages/contact\\_us.aspx](http://www.towerhamlets.gov.uk/content_pages/contact_us.aspx))

### **Meeting access/special requirements.**

The Town Hall is accessible to people with special needs. There are accessible toilets, lifts to venues. Disabled parking bays and an induction loop system for people with hearing difficulties are available. Documents can be made available in large print, Braille or audio version. For further information, contact the Officers shown on the front of the agenda.



### **Fire alarm**

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

### **Electronic agendas reports and minutes.**

Copies of agendas, reports and minutes for council meetings can also be found on our website from day of publication.

To access this, click [www.towerhamlets.gov.uk](http://www.towerhamlets.gov.uk), 'Council and Democracy' (left hand column of page), 'Council Minutes Agendas and Reports' then choose committee and then relevant meeting date.

Agendas are available at the Town Hall, Libraries, Idea Centres and One Stop Shops and on the Mod.Gov, Apple and Android apps.



QR code for smart phone users

## **APOLOGIES FOR ABSENCE**

### **1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS (Pages 1 - 4)**

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.

### **2. MINUTES OF THE PREVIOUS MEETING(S) (Pages 5 - 12)**

To confirm as a correct record the minutes of the meeting of the Development Committee held on 12<sup>th</sup> March 2014.

### **3. 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.

### **4. PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE (Pages 13 - 14)**

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

	<b>PAGE NUMBER</b>	<b>WARD(S) AFFECTED</b>
<b>5. DEFERRED ITEMS</b>	<b>15 - 18</b>	
<b>5 .1 Coborn Arms, 6-10 Coborn Road, London, E3 2DA (PA/13/02287)</b>	<b>19 - 42</b>	<b>Bow West</b>
<p>Proposal:</p> <ul style="list-style-type: none"> <li>- Erection of single storey side extension to existing kitchen at rear with new extract system.</li> <li>- Partial demolition of existing side extension at rear and erection of new extension to form new orangery dining area and herb garden.</li> <li>- Erection of single storey side/rear extension to existing bar.</li> <li>- Installation of new air-conditioning units and condensers onto existing flat roof.</li> </ul> <p>Recommendation: To resolve to GRANT planning permission subject to conditions and informatives.</p>		
<b>5 .2 375 Cable Street, London, E1 0AH (PA/13/02251)</b>	<b>43 - 58</b>	<b>Shadwell</b>
<p>Proposal: Variation of condition 3 of planning permission granted by the Secretary of State for Communities and Local Government on 30th March 2011, reference APP/E5900/A/10/2141935/NWF, LBTH reference PA/07/03290, to allow opening hours from 9am - 10pm Sunday to Thursday and 9am - 11pm Fridays and Saturdays.</p> <p>Approved Hours: 9am - 9pm Sunday to Thursday and 9am - 10pm Friday and Saturday</p> <p>Recommendation: To resolve to REFUSE planning permission for the reason set out in the report.</p>		
<b>5 .3 93 New Road, London, E1 1HH (PA/13/02318)</b>	<b>59 - 76</b>	<b>Whitechapel</b>
<p>Proposal: Proposed change of use from a retail shop A1 into a restaurant A3. Installation of extract flue at rear.</p> <p>Recommendation: To GRANT planning permission subject to conditions.</p>		

## 6. PLANNING APPLICATIONS FOR DECISION

77 - 78

### 6.1 Wood Wharf, Preston's Road E14 (PA/13/02974)

79 - 104

Millwall

Proposal: Temporary change of use to Class D1 (non-residential institution) and D2 (assembly and leisure), up to 2,400 sq.m of Class A3 (restaurants and cafes) and A4 (drinking establishments) floor space (including food markets) and sui generis (theatre, outdoor exhibition/sporting uses (falling outside of Class D1) and ancillary uses to comprise no more than 14,999 sq.m of enclosed floor space; erection of a temporary bridge; erection of temporary structures; works of hard and soft landscaping, parking and other works incidental to the application for a limited period until 28th February 2016.

Recommendation: To GRANT planning permission subject to conditions and informatives and S106 Obligations

## 7. OTHER PLANNING MATTERS

None.

### **Next Meeting of the Development Committee**

Wednesday, 7 May 2014 at 7.00 p.m. in the Council Chamber, 1st Floor, Town Hall, Mulberry Place, 5 Clove Crescent, London, E14 2BG

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# Agenda Item 1

## **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:-

Meic Sullivan-Gould, Monitoring Officer, Telephone Number: 020 7364 4801



## 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 7.00 P.M. ON WEDNESDAY, 12 MARCH 2014

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

#### Members Present:

Councillor Helal Abbas (Chair)  
Councillor Judith Gardiner  
Councillor Tim Archer  
Councillor Khaled Uddin Ahmed  
Councillor Rajib Ahmed (Substitute for  
Councillor Kosru Uddin)

#### Other Councillors Present:

None.

#### Apologies:

Councillor Kosru Uddin, Councillor Gulam Robbani and Councillor Harun Miah

#### Officers Present:

Paul Buckenham	– (Development Control Manager, Development and Renewal)
Fleur Brunton	– (Senior Lawyer - Planning, Directorate, Law Probity and Governance)
Angelina Eke	– (Development Control Planner, Development and Renewal)
Zoe Folley	– (Committee Officer, Directorate Law, Probity and Governance)
Adrian Walker	– (Planning Officer, Development and Renewal)

#### 1. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

No declarations of disclosable pecuniary interests were made.

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

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 12<sup>th</sup> February 2014 be agreed as a correct record and signed by the Chair.

### 3. 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

### 4. PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE

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

### 5. DEFERRED ITEMS

Nil items.

### 6. PLANNING APPLICATIONS FOR DECISION

#### 6.1 Units 24 - 32 (even) Mastmaker Road, London, E14 9UB (PA/13/02773)

Update Report Tabled.

Paul Buckenham (Development Manager, Development and Renewal) drew attention to the update report regarding the publication of the National Planning Practice Guidance and the commencement of the public consultation on the Draft further alterations to the London Plan 2014.

Whilst they should be given some weight, the changes did not introduce any further material considerations or alter the nature of the recommendations.

Mr Buckenham introduced the item regarding Units 24 - 32 (even) Mastmaker Road to vary Condition 6 (hours of operation) relating to applications PA/13/01647 and PA/13/00116 which allowed a change of use to provide a secondary school offering a range of vocational subjects.

Angelina Eke (Planning Officer) presented the report. The Committee were advised of the proposals to extend the hours for staff at the site to 06:30 to 23:00 and to extend the hours of the Social Enterprise units.

The Applicant was seeking these changes to meet the demands of the service

users and the needs of the community. The applicant had carried out a marketing exercise and considered that, based on this, there was a need for the proposal. The changes should also improve the sustainability of the businesses. The Committee noted the outcome of the local consultation. There had been 4 letters of objection, 1 petition in objection with 33 signatures. The nature of the concerns were explained. It was also reported that since agenda publication, 48 letters of support had been submitted (as detailed in the update).

The material planning issues concerned amenity and highway impact. It was noted that the LBTH Environmental Health Team and the Crime Prevention Officer had no objections to the proposal.

The Applicant was also committed to restricting use of the car park on site after hours and updating the Travel Plan to reflect the proposals.

Overall, Officers did not consider that the proposal would cause any undue impacts. Therefore, the application should be granted planning permission.

Members sought assurances on the plans to restrict use of the car park after hours to protect residential amenity, particularly from the noise. Officers drew attention to the comments of LBTH Highways as set out in the report. Nevertheless, the Committee could add a condition to ensure the closure of the car park after hours.

It was also discussed whether the opening hours of the gym/sports hall should be restricted to 07:00 to allow staff time to arrive on site and to open up at 06:30. It was considered very likely that if granted, that the staff would arrive before 06:30 to open up the facility in breach of the condition.

As a result of these issues, Councillor Tim Archer proposed an amendment to the application to restrict use of the car park at the site and to restrict the opening hours of the gym to 07:00. The amendments were seconded by Councillor Khales Uddin Ahmed. On a vote of 4 in favour, and 1 against, the Committee agreed these changes.

Members asked about the incidents of Anti-Social Behaviour (ASB) at the site. In response, Officers referred to the comments of the Crime and Prevention Officer. There was no evidence to suggest that the proposal would increase ASB or any known incidences of ASB directly relating to this site.

It was confirmed that the 48 letters of support (referred to in the update) were pro-forma letters. With the permission of the Chair, these were circulated to the Committee. Members questioned the number from local residents and the number of standard letters. The Chair requested that this should be made clear in reports. Officers confirmed that the majority were from local residents.

Some Members questioned the need for the application at this time given that the facilities had only recently opened. It was considered that the proposals should ideally have been sought as part of the original application. Whilst supportive of the application, this approach could be perceived as incremental

development.

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

That planning permission (PA/13/02773) at Units 24 - 32 (even) Mastmaker Road, London, E14 9UB be **GRANTED** to vary condition 6 (hours of operation) attached to planning permission dated 15/10/2013 ref: PA/13/01647, which varied conditions 5 and 6 of the planning permission dated 10/07/2013 ref: PA/13/00116 which allowed a change of use of the existing light industrial units to a secondary school (Use Class D1) offering a range of vocational subjects for 14-19 year olds SUBJECT to the conditions and informatives set out in the Committee report and the following amendments:

- Opening Hours of the Gym/Sports Hall

To be amended to Monday to Friday **07:00** to 22:00 (with Saturday to Sunday 08:00 to 20:00)

- Restrictions on the use of the car park at the site outside core hours.

The approved hours are set out in full below:

Teachers & staff

- Mondays to Saturdays - 6.30 - 23:00 hours

14 - 16 year old students

- 09:30 - 15:00 (as approved under PA/13/01647)
- 16 - 19 year old students - 10:00 - 15:30 (as approved under PA/13/01647)

Nursery/Family Centre

- Monday to Friday - 07:00 - 20:00 hours
- Saturdays 08:00 - 18:00 hours

Café/Restaurant use

- Mondays to Fridays - 07:30 - 22:00
- Saturdays - 10:00 – 22:00 hours
- Sundays - 10:00 – 21:00 hours

Gym/Sports Hall

- Mondays to Fridays - **07:00** - 22:00
- Saturdays and Sundays – 08:00 – 20:00 hours

## 6.2 93 New Road, London, E1 1HH (PA/13/02318)

Update Report Tabled.

Paul Buckenham (Development Manager) introduced the application regarding 93 New Road for change of use to an A3 restaurant.

The Chair invited registered speakers to address the Committee.

Mohammed Sultan Haydar spoke in objection to the application. Mr Haydar considered that the proposal should be rejected given the overconcentration of restaurants in the area. He drew attention to the impact of such premises on residents in terms of noise disturbance and parking stress. The proposal would add to these problems and further ruin residents quality of life. He noted the decision to refuse the similar applications and considered that this application should also be rejected.

Mukith Uddin spoke in opposition to the application as a local resident. He also expressed concern at the high number of restaurants locally and the impact of these premises on amenity in terms of nuisance behaviour, increased pollution, in view of the number of children in the area and problems with vermin. This additional restaurant would worsen these problems.

Whilst the applicant had taken on board many of their concerns, no real consideration had been given to the full impact on local residents. He considered that he had contacted the Enforcement Team about breaches in the planning permission for a unit on New Road. However, no action had been taken. The application should be refused as the activities from the proposal would worsen the existing problems.

Note: The Applicant had been invited to address the Committee in accordance with the Development Committee Procedural Rules. However, had declined this offer.

Adrian Walker (Planning Officer) presented the detailed report. He explained the site location, the surrounding area that was mixed in nature, the proposed layout of the premises, the flue and the outcome of the local consultation. To which 4 letters of objection had been received regarding the potential for noise, litter and air pollution from the proposal. He addressed the main issues for consideration including the justification for the loss of the A1 use and the plans for the flue which would preserve the character of the surrounding area.

A key issue for consideration was the issue of over proliferation of A3 uses in the area and the impact of this on residents. Officers drew attention to the decision made by the Committee regarding 85 New Road on 11<sup>th</sup> October 2013, where Members considered that there was a lack of evidence to suggest that there was an over concentration of A3 uses in the area. Officers also drew attention to the recent survey completed since that decision. This showed that if granted, the number of A3 uses would increase by only a small percentage.

Members were also reminded that there was no specific guidance in planning policy for defining what might constitute overconcentration. Therefore, it was necessary to base this decision on the evidence.

In view of the above, Officers did not consider the proposal would result in an over concentration of A3 units in the area and affect amenity given the nature of the restaurant use. Therefore, Officers were recommending that the application be granted.

In response, Members expressed concern about the impact of the existing A3 uses on the local environment. A Member objected to the amount of smoke and odours from such premises. Given this, and the concerns expressed by the objectors, it was feared that the application could worsen this. Members also noted the decision to refuse the previous applications and asked whether the problems around Anti-Social Behaviour had been taken into account. Members also asked about the separation distances between the unit and other restaurants.

Officers confirmed that Environmental Health were satisfied with the plans, particularly for the flue. Officers emphasised the decision to grant 85 New Road and the similarities with this application in terms of evidence. Therefore, based on this and the lack of policy guidance, Officers considered that the application would not result in overconcentration and that the proposal was acceptable. Officers also confirmed the nature of the uses in the surrounding units. The issue of ASB had fully been taken into account. There was no evidence to suggest that a well managed restaurant use should lead to such problems.

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

That the Officer recommendation to grant planning permission (PA/13/02318) at 93 New Road, London, E1 1HH be **NOT ACCEPTED** for proposed change of use from a retail shop A1 into a restaurant A3 subject to conditions.

The Committee were minded to refuse the scheme due to concerns over the following issues:

- Overconcentration of A3 restaurant uses in the area.
- Impact of the proposal on residential amenity in terms of increased noise and disturbance and Anti-Social Behaviour arising from the activities based on the evidence of local residents.

In accordance with Development Procedural Rules, the application was **DEFERRED** to enable Officers to prepare a supplementary report to a future meeting of the Committee setting out proposed detailed reasons for refusal and the implications of the decision.

(The Members that voted on this item were Councillors Helal Abbas, Rajib Ahmed, Khaled Uddin Ahmed, Judith Gardiner and Tim Archer).

## 7. OTHER PLANNING MATTERS

Nil Items.



The meeting ended at 8.15 p.m.

Chair, Councillor Helal Abbas  
Development Committee

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

### Who can speak at Committee meetings?

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

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

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

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

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

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

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

This guidance is a précis of the full speaking rules that can be found on the Committee and Member Services webpage: [www.towerhamlets.gov.uk/committee](http://www.towerhamlets.gov.uk/committee) under Council Constitution, Part.4.8, Development Committee Procedural Rules.

### What can be circulated?

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

### How will the applications be considered?

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



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

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

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

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

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

<p><b>Deadlines.</b> To view the schedule of deadlines for meetings (including those for agenda papers and speaking at meetings) visit the agenda management timetable, part of the Committees web pages. Visit <a href="http://www.towerhamlets.gov.uk/committee">www.towerhamlets.gov.uk/committee</a> - search for relevant Committee, then 'browse meetings and agendas' then 'agenda management timetable'.</p>	 <p>Scan this code to view the Committee webpages.</p>
<p><b>The Rules of Procedures for the Committee are as follows:</b></p> <ul style="list-style-type: none"><li>• Development Committee Procedural Rules - Part 4.8 of the Council's Constitution (Rules of Procedure).</li><li>• Terms of Reference for the Strategic Development Committee - Part 3.3.5 of the Council's Constitution (Responsibility for Functions).</li><li>• Terms of Reference for the Development Committee - Part 3.3.4 of the Council's Constitution (Responsibility for Functions).</li></ul>	 <p>Council's Constitution</p>

# Agenda Item 5

<b>Committee:</b> Development	<b>Date:</b> 9 <sup>th</sup> April 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b>
<b>Report of:</b> Corporate Director Development and Renewal		<b>Title:</b> Deferred Items	
<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 This report is submitted to advise the Committee of planning applications that have been considered at previous meetings and currently stand deferred. The following information and advice applies to them.

## 2. DEFERRED ITEMS

- 2.1 The following items are in this category:

Date deferred	Location Reference number	Development	Reason for deferral
12 <sup>th</sup> February 2014	Coborn Arms, 6-10 Coborn Road, London, E3 2DA (PA/13/022 87)	<p>Erection of single storey side extension to existing kitchen at rear with new extract system.</p> <p>Partial demolition of existing side extension at rear and erection of new extension to form new orangery dining area and herb garden.</p> <p>Erection of single storey side/rear extension to existing bar.</p> <p>Installation of new air-conditioning units and condensers onto existing flat roof.</p>	The Committee were minded to refuse the scheme due to concerns over the impact on residents in terms of increased noise, disturbance and anti-social behaviour deriving from the increased capacity of the pubic house arising from the proposed extensions.
12 <sup>th</sup> February 2014	375 Cable Street, London, E1 0AH (PA/13/02 251)	Variation of condition 3 of planning permission granted by the Secretary of State for Communities and Local Government on 30th March 2011, reference APP/E5900/A/10/2141935/NWF , LBTH reference PA/07/03290, to allow opening hours from 9am - 10pm Sunday to Thursday and 9am - 11pm	<p>The Committee were minded to approve the application due to the following reasons:</p> <p>The lack of formal evidence that the premises was responsible for anti-social behaviour and that the extended hours would cause harm to the amenity of local residents.</p>

**LOCAL GOVERNMENT ACT 2000 (Section 97)  
LIST OF BACKGROUND PAPERS USED IN THE DRAFTING OF THE REPORTS UNDER ITEM 6**

Brief Description of background papers:

Tick if copy supplied for register:

Name and telephone no. of holder:

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

Eileen McGrath (020) 7364 5321

		<p>Fridays and Saturdays.</p> <p>Approved Hours: 9am - 9pm Sunday to Thursday and 9am - 10pm Friday and Saturday</p>	<p>The number of similar premises that operated with late night hours.</p> <p>To consider the option of a temporary consent with alternative hours (for example a closing time of 10:30pm, Fridays and Saturdays).</p> <p>That, in view of the current economic climate, it was important to support a local family run business.</p>
12 <sup>th</sup> March 2013	93 New Road, London, E1 1HH (PA/13/023 18)	Proposed change of use from a retail shop A1 into a restaurant A3. Installation of extract flue at rear.	<p>The Committee were minded to refuse the scheme due to concerns over the following issues:</p> <p>Overconcentration of A3 restaurant uses in the area.</p> <p>Impact of the proposal on residential amenity in terms of increased noise and disturbance and Anti-Social Behaviour arising from the activities based on the evidence of local residents.</p>

### 3. CONSIDERATION OF DEFERRED ITEMS

- 3.1 The above deferred application are for consideration by the Committee. The original reports along with any update reports are attached.
- 3.2 Deferred applications may also be reported in the Addendum Update Report if they are ready to be reconsidered by the Committee. This report is available in the Council Chamber 30 minutes before the commencement of the meeting.

### 4. PUBLIC SPEAKING

- 4.1 As public speaking has already occurred when the Committee first considered these deferred items, the Council's Constitution does not allow a further opportunity for public speaking.
- 4.2 The only exception to this is where a fresh report has been prepared and presented in the "Planning Applications for Decision" part of the agenda. This is generally where substantial new material is being reported to Committee and the recommendation is significantly altered.
- 4.3 **Note:** With the Chair's permission, public speaking will be allowed on agenda item 5.1 Coborn Arms, 6-10 Coborn Road, London, E3 2DA (PA/13/02287)

**5. RECOMMENDATION**

- 5.1 That the Committee note the position relating to deferred items and to take any decisions recommended in the attached reports.

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# Agenda Item 5.1

<b>Committee:</b> Development	<b>Date:</b> 9 April 2014	<b>Classification:</b> Unrestricted
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Piotr Lanoszka	<b>Ref No:</b> PA/13/02287
	<b>Ward:</b> Bow West

## 1.0 APPLICATION DETAILS

<b>Location:</b>	Coborn Arms, 6-10 Coborn Road, London, E3 2DA
<b>Existing Use:</b>	Public House (Use Class A4)
<b>Proposal:</b>	<ul style="list-style-type: none"><li>-Erection of single storey side extension to existing kitchen at rear with new extract system.</li><li>- Partial demolition of existing side extension at rear and erection of new extension to form new orangery dining area and herb garden.</li><li>- Erection of single storey side/rear extension to existing bar.</li><li>- Installation of new air-conditioning units and condensers onto existing flat roof.</li></ul>
<b>Drawings and documents:</b>	<ul style="list-style-type: none"><li>- Design &amp; Access Statement, by Mervyn Brown Associates Limited, ref 1309, dated September 2013;</li><li>- Noise Survey and Plant Noise Assessment rev 1, by WSP, dated 26/09/2013;</li><li>- Site Location Plan;</li><li>- Drawings 1309/01, 1309/02, 1309/03 rev C, 1309/04 rev C and BWF/NFM/01.</li></ul>
<b>Applicant:</b>	Young & Cos Brewery Plc
<b>Ownership:</b>	Young & Cos Brewery Plc
<b>Historic Building:</b>	None
<b>Conservation Area:</b>	Tredegar Square

## 2.0 BACKGROUND

- 2.1 This application proposal was reported to the Development Committee on the 12<sup>th</sup> February 2014 with officers' recommendation for **APPROVAL**. The Committee resolved **NOT TO ACCEPT** officers' recommendation.
- 2.2 Officers recorded that Members were minded to **REFUSE** permission for the scheme due to concerns over the impact on residents in terms of increased noise, disturbance

and anti-social behaviour deriving from the increased capacity of the public house arising from the proposed extensions.

- 2.3 The application was **DEFERRED** to enable officers to prepare a supplementary report setting out and providing commentary on the detailed reasons for refusal. deferred

### **3.0 AMENDED PROPOSAL**

- 3.1 Following the 12<sup>th</sup> February Committee meeting, on the evening of 18<sup>th</sup> February the applicant has conducted a consultation meeting with residents and subsequently submitted a revised proposal aiming to address residents' concerns.

- 3.2 The applicant has omitted the new trading area to be constructed over the garden at rear of No. 6 Coborn Road and instead proposes to dedicate this area to larger toilets, an office/store and a private garden. The garden would not be accessible to members of the public and there would be no window openings to bar or dining areas. In this way better ancillary facilities would be provided with a lesser increase in the capacity of the establishment.

- 3.3 While the total proposed floor area has been reduced by only 33sqm, due to the increased size of the ancillary facilities, the proposed trading area has been reduced by 56sqm. As such, in terms of the size of the trading area, the amended proposal would result in an increase of only 48sqm rather than 104sqm as previously proposed.

- 3.4 The future use of the part of the extension to be dedicated to ancillary facilities can be safeguarded through imposition of a condition preventing the use of this area for sale or consumption of food and drink.

- 3.5 Officers have conducted a further public consultation exercise and sent consultation letters to all of the 49 previous objectors. 14 responses were received, all in objection. The respondents maintain their original objections to the expansion of the public house.

- 3.6 Officers are of the view that the proposal as amended represents a significant improvement over the previously proposed scheme. The currently proposed increase to the existing trading area of the public house would be minor and would not result in significant harm to the amenity of the adjoining occupiers, in particular in light of the existing amenity impact of the premises.

### **4.0 PROPOSED REASON FOR REFUSAL**

- 4.1 In the event Members are not satisfied with the revised proposal, officers have drafted the following refusal reason, in line with Member's concerns as noted during the 12<sup>th</sup> February 2014 Committee.

1. The proposed extension to the public house would result in an increase in late evening noise, disturbance and general activity within the forecourt and in the vicinity of the premises and thus lead to an unacceptably harmful effect on the living conditions and amenity of the adjoining residential occupiers. This would be contrary to the general principles of the National Planning Policy Framework (2012), policy 7.15 of the London Plan (2011), policy SP03(2B) of the Core Strategy (2010), and policies DM8 and DM25 of the Managing Development Document (2013). These policies require development to protect, and where

possible improve, the amenity of surrounding existing and future building occupants, as well as the amenity of the surrounding public realm.

4.2 It is considered that the above reason for refusal can be defended on appeal.

#### Consideration

4.3 Officers note Members' and Residents' concerns with regard to the possibility of an adverse amenity impact resulting from the proposal. However, it is officers' professional view that such an impact is likely to be minor and insubstantial in light of the existing activity associated with the premises. The application proposal has been revised substantially and, subject to conditions, is considered to be acceptable in planning terms.

### **5.0 IMPLICATIONS OF THE DECISION**

5.1 Should Members decide to re-affirm their previous resolution and refuse planning permission, there is a number of possibilities open to the Applicant. These would include (but would not be limited to):

- Resubmit an amended scheme to attempt to overcome the reasons for refusal. However, the scope of this option is limited as the applicant has already substantially reduced the amount of proposed trading floorspace.
- Lodge an appeal against the refusal of the scheme.

5.2 Planning Inspectorate guidance on appeals sets out that:

"Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed, authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the Council".

5.2 Whatever the outcome, your officers would seek to defend any appeal.

### **6.0 RECOMMENDATION**

6.1 Officers' recommendation as at 12<sup>th</sup> February 2014 to **APPROVE** planning permission remains unchanged.

6.2 If Members are minded to approve the application it is recommended that in addition to conditions set out in paragraph 3.3 of the 12<sup>th</sup> February report a further condition is imposed to prevent the use of the extension at rear of No 6 Coborn Road from being used as an area for sale or consumption of food and drink.

### **7 APPENDICES**

7.1 Appendix One - Report to Development Committee 12<sup>th</sup> February 2014

7.2 Appendix Two - Update Report to Development Committee 12<sup>th</sup> February 2014

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<b>Committee:</b> Development	<b>Date:</b> 12 February 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Piotr Lanoszka	<b>Ref No:</b> PA/13/02287
	<b>Ward:</b> Bow West

## 1.0 APPLICATION DETAILS

<b>Location:</b>	Coborn Arms, 6-10 Coborn Road, London, E3 2DA
<b>Existing Use:</b>	Public House (Use Class A4)
<b>Proposal:</b>	<ul style="list-style-type: none"> <li>- Erection of single storey side extension to existing kitchen at rear with new extract system.</li> <li>- Partial demolition of existing side extension at rear and erection of new extension to form new orangery dining area and herb garden.</li> <li>- Erection of single storey side/rear extension to existing bar.</li> <li>- Installation of new air-conditioning units and condensers onto existing flat roof.</li> </ul>
<b>Drawings and documents:</b>	<ul style="list-style-type: none"> <li>- Design &amp; Access Statement, by Mervyn Brown Associates Limited, ref 1309, dated September 2013;</li> <li>- Noise Survey and Plant Noise Assessment rev 1, by WSP, dated 26/09/2013;</li> <li>- Site Location Plan;</li> <li>- Drawings 1309/01, 1309/02, 1309/03B, 1309/04B and BWF/NFM/01.</li> </ul>
<b>Applicant:</b>	Young & Cos Brewery Plc
<b>Ownership:</b>	Young & Cos Brewery Plc
<b>Historic Building:</b>	None
<b>Conservation Area:</b>	Tredegar Square

## 2.0 EXECUTIVE SUMMARY

- 2.1 The applicant seeks to partially demolish the existing single storey extensions at rear and to erect new, enlarged, single storey extensions to facilitate the expansion of the public house to provide improved dining facilities. A new kitchen extract system and air-conditioning plant would be provided and refuse storage would be moved indoors.

As a result of the proposed extensions, the floor area of the public house would increase from 308sqm to 421sqm. This represents an increase of 112sqm or 36.7%. According to the applicant, the capacity of the premises would increase from 200 to approximately 250 patrons.

- 2.2 The main issue for Members to consider is whether the proposed extension to the floorspace of the public house would result in an increase in late evening noise, disturbance and general activity in the locality and whether this would have an unacceptable impact on the amenity of the local residents bearing in mind the residential character of the neighbourhood and the historic nature of the public house use on site.
- 2.3 Coborn Arms is an established, historic public house and as such there are no planning conditions restricting the opening hours, time of deliveries or general operation of the premises. Nevertheless, other parallel control regimes exist to control the amenity impact of public houses under the Licensing Act 2003 and the Environmental Protection Act 1990. In the assessment of the proposal's amenity impact Members should consider whether the licensing and environmental protection regimes can be relied upon to control any adverse environmental or amenity impacts which could potentially arise as a result of the proposed expansion.
- 2.4 Officers consider that the physical extension works at rear, including new air-conditioning plant and a high level extract system, by virtue of higher standards of plant and lack of any openable fenestration, would not be detrimental to the amenity of neighbours. The extensions would also be of an appropriate scale, height, design and materials, and preserve the character and appearance of the Tredegar Square Conservation Area.
- 2.5 Nonetheless, the proposed new floorspace and capacity within the drinking establishment is likely to result in a higher number of patrons attending the premises during the day and evening. Although officers have no reason to doubt that most patrons would act responsibly when leaving the premises late in the evening, a minority would not. Rowdy behaviour or even loud talking by the additional patrons could have an impact on the amenity and general living conditions of the adjoining residents, especially those living within the line of sight of the forecourt of the premises.
- 2.6 Officers consider that it would be unreasonable to simply extrapolate that an increase in floorspace of 36.7% or an increase in capacity of 25% (as estimated by the applicant) would lead to a commensurate increase in disturbance experienced by neighbours. It is considered that the proposed increase in the floor area and the likely moderate increase in the number of patrons would not necessarily exacerbate the present amenity impact of the public house, and that in any event it would not worsen the present situation to such an extent as to materially affect the living conditions or amenity of the surrounding residential occupiers.
- 2.7 In conclusion, having had regard to the enforcement and control measures available to the Council under the licensing and environmental health regimes and the historic nature of the public house use, officers consider that the proposal would not affect the amenity of the surrounding residential occupiers to such an extent as to warrant refusal of the proposal.

### **3.0 RECOMMENDATION**

- 3.1 That the Committee resolve to **GRANT** planning permission.

3.2 That the Corporate Director Development & Renewal is delegated authority to issue the planning permission and impose conditions and informatives to secure the following matters:

3.3 Conditions:

1. Time Limit 3 years
2. Compliance with plans and documents
3. Hours of construction and demolition
4. Approval and implementation of sound insulation measures in accordance with standards
5. Extract system and A/C plant to be implemented and maintained in accordance with standards. No perceptible vibration or audible tonal noise. Extract system not to be operated after 22:15
6. Samples of brick and other external facing materials, full details of proposed roof lights and glazed wall
7. Cycle parking for staff
8. No public access to the roof of the extensions
9. No public access to the rear yard area and herb garden
10. Refuse handling to take place only within the proposed bin & recycle area

3.4 Informatives:

1. Development liable for Mayor of London Community Infrastructure Levy
2. Compliance with Building Regulations

#### **4.0 PROPOSAL AND LOCATION DETAILS**

##### **Proposal**

4.1 The applicant seeks to partially demolish the existing single storey extensions at rear and to erect new, enlarged, single storey extensions to facilitate expansion of the public house. A new kitchen extract system and air conditioning plant would be provided. The applicant intends to carry these works out in order to provide improved dining facilities and an extended gastronomical offer.

4.2 The proposal would provide for an enlarged kitchen with a walk-in fridge, a new orangery dining room with a herb garden, a new dining area and new toilet facilities. A dedicated indoor waste handling area would be created within the former garage. The extensions would be built over an existing rear yard as well as the garden at the rear of No. 6 Coborn Road which is currently not accessible to members of the public. Kitchen extract system with filters and sound attenuation would be located on top of the single storey extension and run up the rear elevation to discharge at high level. 5 new roof mounted air-conditioning units would be located adjoining the extract duct on the roof the rear extension. The extract system and the A/C units would be obscured by a low close boarded enclosure. Two roof lights would be provided to allow daylight and the part of the rear extension at 6 Coborn Road would be covered with a sedum green roof.

4.3 As a result of the proposed extensions, the floor area of the public house would increase from 308sqm to 421sqm. This represents an increase of 112sqm or 36.7%.

4.4 According to the applicant the current capacity of the premises is at 200 patrons inclusive of a dining area holding between 70 and 80 customers. With the increased

area, the capacity would, according to the applicant, increase to about 250 patrons with approximately 120 of these dining.

- 4.5 The previous iterations of the proposal involved creation of an alfresco dining area at rear and relocation of waste collection and deliveries from in front of the premises to the back, through Coborn Street. These elements of the proposal have been omitted by the applicant following public consultation feedback.

### **Site and Surroundings**

- 4.6 The application relates to the Coborn Arms public house located on the eastern side of Coborn Road, off Bow Road. Coborn Arms is an established, historic, mid-terrace public house which has previously been expanded to include adjoining properties to the north and south.
- 4.7 The vicinity of the site is of a residential character, notwithstanding a Chinese take away restaurant located on the opposite side of Coborn Road, at No. 13 and two other public houses in the neighbourhood. These are the Morgan Arms, located at the corner of Coborn Road and Morgan Street, some 100m away and Lord Tredegar, located at the junction of Litchfield Road and College Terrace, some 370m walking distance. The nearest town centre is the Mile End Neighbourhood Centre, located approximately 300m to the south-west. There is also a number of commercial premises including a supermarket, along Bow Road, 200m to the south of the application site.
- 4.8 The nearest residential properties are located at either side of the public house, on the opposite side of Coborn Road and at the back, at Coborn Street, Coborn Mews and Regal Place.
- 4.9 The application site is located in an out of town centre location and carries no policy designations. It is located within the Tredegar Square Conservation Area but is not listed. There is, however, a large number of statutorily listed buildings in the vicinity, the closest being the Grade II listed terraces on either side of Coborn Road as well as the Grade II listed semi-detached villas on Coborn Street.

### **Planning History**

- 4.10 The original Coborn Arms public house, at 8 Coborn Road, has previously expanded into properties to its immediate north, at No. 8, and south, at No. 6, as approved on 2<sup>nd</sup> November 1960 (ref PA/60/00520) and 4<sup>th</sup> July 1986 (ref PA/86/00451), respectively.
- 4.11 A condition is attached to the latter approval stipulating that the garden area at the rear of No. 6 Coborn Road is not to be used by the customers of the public house. This condition was imposed in the interest of residential amenity. Subsequent application to remove the restriction has been refused on 23<sup>rd</sup> September 1993 (ref BW/93/000590).
- 4.12 A planning application for erection of a substantial single storey rear extension to the residential property at 4 Coborn Road, immediately to the south of the application site, has been approved on 19th December 2013 (ref PA/13/02740). It is understood that the construction works have already commenced.

## **5.0 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 **Government Planning Policy**

National Planning Policy Framework 2012

5.3 **London Plan 2011 with Revised Early Minor Alterations published 11/10/2013**

- 4.7 - Retail and town centre development
- 6.3 - Assessing effects of development on transport capacity
- 6.9 - Cycling
- 7.1 - Building London’s neighbourhoods and communities
- 7.4 - Local character
- 7.6 - Architecture
- 7.8 - Heritage
- 7.15 - Reducing noise and enhancing soundscapes

5.4 **Core Strategy 2010**

- SP01 - Refocusing on our town centres
- SP03 - Creating healthy and liveable neighbourhoods
- SP06 - Delivering successful employment hubs
- SP09 - Creating attractive and safe streets and spaces
- SP10 - Creating distinct and durable places
- SP12 - Delivering placemaking

- SO6 - Refocusing on our town centres
- SO16 - Delivering successful employment hubs

5.5 **Managing Development Document 2013**

- DM0 - Delivering sustainable development
- DM1 - Development within the town centre hierarchy
- DM8 - Community infrastructure
- DM20 - Supporting a sustainable transport network
- DM22 - Parking
- DM24 - Place-sensitive design
- DM25 - Amenity
- DM27 - Heritage and the historic environment

5.6 **Supplementary Planning Documents**

Tredegar Square Conservation Area Character Appraisal

6.0 **CONSULTATION RESPONSE**

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

6.2 The following were consulted regarding the application:

**LBTH Environmental Health**

- 6.3 No objection subject to a condition restricting the hours of operation of the kitchen extract system.

[Officer comment: a condition will be placed to restrict the operation of the kitchen extract system until 22:15 every day]

#### **LBTH Transportation and Highways**

- 6.4 Two cycle parking spaces should be provided for staff. Given the nature of the public house use and good public transport connections no concerns are raised with regards to additional trips.

[Officer comment: details of cycle parking will be conditioned]

#### **LBTH Design and Conservation**

- 6.5 No objection in light of the site being framed by the presence of existing extensions and back garden development as well as the approved works to extend the adjoining residential property. The proposal would not result in harm to the character and appearance of the Tredegar Square Conservation Area. The setting of adjoining Grade II listed buildings would not be affected.

#### **LBTH Planning Policy**

- 6.6 No objection raised. The proposal would not be contrary to policy DM8 of the Managing Development Document as the proposal is for expansion of an existing, established facility. The premises would continue to serve a predominantly local customer base and have a predominantly local catchment area. There is no evidence to suggest that there is no need for the expansion of the premises or that they would cease to be local in nature or scale.

### **7.0 LOCAL REPRESENTATION**

- 7.1 A total of 34 letters were sent to neighbours and interested parties on 1<sup>st</sup> October 2013. A site notice was displayed on 2<sup>nd</sup> October 2013 and a press advert published in East End Life on 28<sup>th</sup> November 2013.

- 7.2 As the applicant has amended the proposal following the original consultation, further consultation letters were sent to objectors on 28<sup>th</sup> November 2013.

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

No of individual responses:                      Objecting: 44                      Supporting: 0

No of petitions received:                      0

An objection has also been received from the Mile End Old Town Residents Association.

- 7.4 The following issues were raised in objection to the proposal and will be addressed in the material considerations section of this report:

- Adverse amenity impact, through:
  - a) an increase in the general activity associated with the use

- b) an increase in the number of late night incidents and antisocial behaviour
  - c) more intensive use of the drinking/smoking area within the forecourt of the premises and through customers loitering on the footway on both sides of the road
  - d) increase in noise transmitted through party walls
  - e) increase in disturbance from deliveries, including barrels/kegs which are delivered during early morning hours
  - f) noise and light pollution from roof lights at rear
  - g) smell and noise nuisance from kitchen extract system at rear and from door to the kitchen area
  - h) disruption from construction and demolition works
  - i) loss of privacy
- The extension through its large floor area would constitute overdevelopment and would not be appropriate in a residential area and/or a conservation area. The proposal would be contrary to policy DM8 of the Managing Development Document as the neighbourhood pub would cease to be local in nature and no need for expansion has been demonstrated. The proposal would be contrary to the Core Strategy vision for the area which aims to create a place suitable for families and which reflects the quiet, more community-based side of urban living
  - The expansion would lead to an increase in traffic and parking stress on what is a narrow road
  - The proposed kitchen extract ductwork and air-conditioning units with timber enclosure would be inappropriate in a conservation area
  - The respondents to the re-consultation following amendments to the application generally welcome the amendments but maintain their objection to the proposal on grounds of the scale of the proposed extension.

7.5 The following matters require to be addressed directly:

- The proposal contravenes previous restrictions on the use of the rear garden at 6 Coborn Road

[Officer comment: the presence of a condition restricting public use of the rear garden at No. 6 Coborn Road does not prevent the applicant from applying to build over this area. The proposal should be considered on its own merits]

- Use of the alleyway for deliveries and refuse collection from Coborn Street would lead to disruption to neighbours amenity from noise and smell as well as create traffic issues on Coborn Street and create a hazard for school children

[Officer comment: this part of the proposal has been removed following public consultation. Deliveries and refuse collection would remain to be handled from the Coborn Road frontage]

- No alfresco dining area or beer garden should be created at the back as this would result in noise and disturbance. Customers should be prevented from accessing the external areas at rear so as not to cause nuisance.

[Officer comment: this part of the proposal has been removed following public consultation. All of the areas accessible to the public would be fully enclosed. There would be no public access to the remaining external areas]

- Hours of opening of the public house should be restricted by condition

[Officer comment: it would not be reasonable for the local planning authority to impose opening hours restrictions as the public house use is historic and is not currently subject to opening hours restrictions under the planning control regime. Officers note that the hours of operation are currently controlled under the licensing legislation]

- The public house should not be turned into a gastro pub or a restaurant

[Officer comment: Change of use from a drinking establishment (Use Class A4) to a restaurant (Use Class A3) would constitute permitted development and does not require the benefit of planning permission. An increase in the proportion of food sales versus alcohol sales and the focus of the business is one for the business operator to take]

- No dedicated delivery/loading bay would be provided and deliveries already disrupt traffic and increase parking stress along Coborn Road

[Officer comment: the Council's Highways section raises no objection to the application. It is considered that lack of a dedicated bay for deliveries or refuse collection would be a matter for the Highways section should they consider that it needs to be addressed]

## **8.0 MATERIAL PLANNING CONSIDERATIONS**

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

1. The land use implications of provision of additional floorspace in an out of town centre location
2. The amenity impact of the proposal and in particular the impact of late evening comings and goings and disturbance
3. The suitability of the extension works and their impact on the character and appearance of the Tredegar Square Conservation Area
4. The highways and transportation impact arising from the increase in capacity

### Land Use

- 8.2 The National Planning Policy Framework sets out the Government's land use planning and sustainable development objectives. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles: an economic role, a social role and an environmental role. These roles are mutually dependant and should not be undertaken in isolation.
- 8.3 Paragraph 18 of the NPPF states that the planning system should operate to encourage and not act as an impediment to sustainable growth. Significant weight should be placed on the need to support economic growth through the planning system. Strategic objective SO16 and policy SP06 of the Council's Core Strategy seek to support the growth of existing and future businesses in accessible and appropriate locations and to promote the creation of a sustainable, diversified and balanced economy with job opportunities provided in each place, in, and at the edge of, town centres. Provision of additional floorspace would likely lead to an increase in

job opportunities and make a positive contribution to the local economy. Members should take these potential benefits into account when considering other likely impacts of the development.

- 8.4 Core Strategy objective SO6 is to promote areas outside of town centres for primarily residential and supporting uses that do not need the higher levels of accessibility that town centres require. Specifically, with regards to public houses, policy DM1(4) directs such uses to designated town centres. This is in order to support their vitality and viability.
- 8.5 Public houses are also given special status of social and community facilities by policy DM8 of the Managing Development Document, further to policy SP03 of the Core Strategy which aims to deliver healthy and liveable neighbourhoods across the borough through protection of existing and management of the location of new social and community facilities. Policy DM8(4) states that extensions to existing facilities located outside of town centres will only be supported where they are local in nature and scale and where local need can be demonstrated.
- 8.6 The supporting text to policy DM8(4) explains that the Council considers that social and community facilities should generally be located within, or at the edge of, town centres as these locations are most accessible and because such uses make a contribution to the vitality and viability of town centres. Location of social and community facilities outside of town centres would only be considered in exceptional circumstances where there is a local need which is not being met elsewhere in the neighbourhood. Facilities provided in these locations need to ensure that their scale respects the surrounding area in terms of design, that there should be no impact on the functioning of the surrounding highway network or the amenity of surrounding residents.
- 8.7 While the above aims of policy DM8(4) are acknowledged, officers consider that lesser weight should be afforded to the land use element of the policy in this particular instance. Officers consider that it is crucial to take into account the fact that the proposal is for expansion of an existing, established, out of town public house and not for creation of a new facility which would rightly require exceptional circumstances in an out of town location. The amenity, design/conservation and highways impacts of the proposal are considered to be acceptable as discussed in the latter sections of this report.
- 8.8 It is considered that it would be highly unlikely for the expanded facility to draw a significant amount of trade away from existing town centre establishments and to have a marked effect on the vitality and viability of the nearby neighbourhood town centre in Mile End and district centre in Roman Road. Public houses are also a typical element of a traditional residential neighbourhood. The planning authority is not in possession of any evidence that the premises would cease to be local in nature or scale and cease to serve a predominantly local customer base. The planning authority is also not in possession of any evidence to suggest that there is no need for the expansion of the premises and it is considered reasonable that it should be up to the business operator, and therefore the applicant, to make a decision as to whether there is a need for the additional floorspace.
- 8.9 As such, it is considered that the proposal would be acceptable in land use planning terms and would not prejudice the Council's policies aiming to safeguard the vitality and viability of designated town centres.

Amenity

- 8.10 The main planning issue raised by this application that the Committee must consider is whether the proposed extension to the floorspace of the public house would result in an increase in late evening noise, disturbance and general activity in the locality and whether this would have an unacceptable impact on the amenity of local residents. In reaching a decision Members should balance any possible adverse amenity impact arising from extensions to the floorspace against benefits which the expansion of the facility could bring to the local economy.
- 8.11 According to paragraph 109 of the NPPF the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to noise pollution which could adversely affect surrounding existing development. Of particular relevance to the control of noise pollution through planning is paragraph 123 of the NPPF which specifies that planning policies and decisions should aim to
- avoid noise from giving rise to significant adverse impacts on health and quality of life;
  - mitigate and reduce to minimum other adverse impacts on health and quality of life arising from noise, including through the use of conditions;
  - recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established; and
  - identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
- 8.12 Policy 7.15 of the London Plan acknowledges that reducing noise pollution and protecting good soundscape quality contributes to improving quality of life, and consequently requires development proposals to seek to reduce noise by minimising the existing and potential adverse impact of noise.
- 8.13 The Council's Core Strategy policy SP03(2B) seeks to address the impact of noise pollution in the Borough by managing the impact of noise created by the night-time economy through planning controls while policy DM25 specifies that in seeking to protect the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm, development should not create unacceptable levels of noise.
- 8.14 There are three main potential sources of noise disturbance which could affect the amenity of the neighbouring residential occupiers as a result of this application. The first would be the noise which would arise from operation of the new extract system and five air-conditioning units to be located at the back of the premises, the second would be noise transmission to adjoining residential properties through party walls and/or any openings, while the third would be noise from comings and goings as well as from patrons congregating outside the premises.
- 8.15 The first two potential sources of noise pollution would predominantly affect the neighbours directly adjoining the application premises as well as those sharing the rear garden soundscape, while the third would predominantly affect the properties facing onto Coborn Road.
- 8.16 With regards to the first potential source of noise, the application proposes replacement of the existing low level kitchen extract system, which does not meet

contemporary standards, with a new DEFRA compliant high level extract system at rear, as well as replacement of existing air-conditioning plant attached to the rear wall of No. 6 Coborn Road, with new air-conditioning plant to be located on the roof of the existing rear single storey extension, adjoining the new kitchen extract system. The air-conditioning plant and the parts of the extract system running along the flat roof, at 1<sup>st</sup> floor level are to be obscured by a low timber enclosure. The high level part of the extract system would run within a brick enclosure, along the rear elevation, and discharge above roof level.

- 8.17 The applicant has submitted details of the extract system as well as a background noise survey and a plant noise assessment demonstrating that the cumulative noise output of the proposed plant would meet the Council's standard of 10dB below the lowest measured level. These details were reviewed by the Council's Environmental Health Officers who confirmed that they are acceptable subject to imposition of a condition restricting the hours of operation of the extract system. The proposed extract system would also incorporate odour filters to ensure that no unpleasant cooking smells would occur to adjoining residential occupiers.
- 8.18 The second possible source of noise which could cause disturbance to neighbours would be from noise leakage through party walls or window/ventilation openings. The existing single storey extension at rear contains windows in its southern elevation, those windows face towards the residential property at 4 Coborn Road. The proposed extensions would have no windows facing towards adjoining properties, while the proposed double glazed wall to the proposed internal herb garden or the proposed double glazed roof lights would not be openable. Due to these changes the rear garden soundscape should generally improve following implementation of the proposal. Nonetheless, as the new dining areas would be directly abutting the properties at 4 Coborn Road to the south and 7 Regal Place to the east, a condition would be imposed to require a scheme of sound insulation to prevent noise disturbance to the residential occupiers of these properties. A condition would also protect the rear garden soundscape through preventing public access to any remaining external areas, such as the narrow alleyway to Coborn Street or the proposed herb garden.
- 8.19 The third and in this case most important potential source of noise disturbance is that which could arise from comings and goings as well as from patrons congregating outside the premises. It is this third source of disturbance which could have a particularly pronounced effect on the amenity of adjoining occupiers during the quieter evening periods.
- 8.20 The Coborn Arms public house is located mid-terrace, on the eastern side of Coborn road, off Bow Road. The vicinity of the site is of a residential character, notwithstanding a Chinese take away restaurant located on the opposite side of Coborn Road, at No. 13 and two other public houses in the neighbourhood. These are the Morgan Arms, located at the corner of Coborn Road and Morgan Street, some 100m away and Lord Tredegar, located at the junction of Litchfield Road and College Terrace, some 370m walking distance. The nearest town centre is the Mile End Neighbourhood Centre, located approximately 300m to the south-west. There are also some commercial premises along Bow Road, 200m to the south of the application site.
- 8.21 Even though Coborn Road is a side road of the busy Bow Road, part of the strategic A11, a significant proportion of the traffic noise is screened by the surrounding built environment. The general character of Coborn Road is quieter and more typical for a residential area, with only single lane traffic in front of Coborn Arms. There is

however significant footfall and reasonable traffic during morning and afternoon peaks as Coborn Road provides a connection between the areas to the north of the railway line, in Bow, and the nearest underground station, in Mile End. It is also one of the few roads in the area which provide a vehicular connection across the railway line and into Bow or even the A12. As such, there is a reasonable level of activity along the street throughout the day and into the evening. Nevertheless, this activity dissipates following the afternoon peak and the soundscape of the area around the public house becomes dominated by the pub use itself with occasional noisier traffic from Bow Road.

- 8.22 As a result of the proposed extensions, the floor area of the public house would increase from 308sqm to 421sqm. This represents an increase of 112sqm or 36.7%. According to the applicant the current capacity of the premises is at 200 patrons inclusive of a dining area holding between 70 and 80 customers. With the increased area, the capacity would, according to the applicant, increase to about 250 patrons with approximately 120 of these dining.
- 8.23 In response to the public consultation, the Council has received a substantial number of objections from residents living adjoining to and in the vicinity of the application premises. The objectors are primarily concerned that the increase in the floorspace of the public house and therefore the capacity of the premises would lead to more late evening disturbance and thus have an adverse impact on their amenity and living conditions. The majority of the disturbance would occur through late comings and goings and the general activity associated with the public house use, as well as from patrons using the external smoking/drinking area and loitering on public footways near to the site.
- 8.24 Officers do acknowledge that in the later hours of the evening most residential occupiers have legitimate expectations to enjoy quieter periods and a peaceful living environment. However, while the vicinity of the site is of a predominantly residential character and the site is not located in a town centre or in an edge of town centre location, the residents live in an urban environment in a neighbourhood with a number of historic public houses. Residents would have been aware when moving to the area that living in the vicinity of a public house would involve being exposed to a higher degree of late evening disturbance.
- 8.25 Coborn Arms is a historic public house and as such there are no planning conditions restricting the opening hours, time of deliveries or general operation of the premises. Nevertheless, other parallel control regimes exist to control the amenity impact of public houses under the Licensing Act 2003 and the Environmental Protection Act 1990. It is noted that the four primary licensing objectives are the prevention of crime and disorder, public safety, prevention of public nuisance, and the protection of children from harm. In the assessment of the proposal's amenity impact Members should consider whether the licensing and environmental protection regimes can reasonably be relied upon to control any adverse environmental or amenity impacts which could potentially arise as a result of the proposed expansion.
- 8.26 The current licence for the premises restricts the opening times up to 23:30 on Mondays, Tuesdays and Wednesdays, 24:00 on Thursdays, Fridays and Saturdays and 23:00 on Sundays, except for 15 non-standard times per year where the premises can stay open until 2:30am. The use of the front drinking/smoking area is restricted to before 23:00, all week. Licensing Officers have confirmed that the same hours of operation would likely be applied to the new licence for the expanded premises due to be presented to the Licensing Committee on the 13<sup>th</sup> March 2014.



- 8.27 It can be reasonably expected that the proposed increase in floorspace and capacity within the drinking establishment would result in a higher number of patrons attending the premises during the day and evening. Although officers have no reason to doubt that most patrons would act responsibly when leaving the premises late in the evening, a minority would not. Rowdy behaviour or even loud talking by the additional patrons could have an impact on the amenity and general living conditions of the adjoining residents, especially those living within the line of sight of the forecourt of the premises.
- 8.28 Nevertheless, officers consider that it would be unreasonable to simply extrapolate that an increase in floorspace of 36.7% or increase in capacity of 25% (as estimated by the applicant) would lead to a commensurate increase in disturbance experienced by neighbours. It is considered that the proposed increase in the floor area and the likely moderate increase in the number of patrons would not necessarily exacerbate the present amenity impact of the public house, and that in any event it would not worsen the present situation to such an extent as to materially affect the living conditions or amenity of the surrounding residential occupiers.
- 8.29 In conclusion, having had regard to the enforcement and control measures available to the Council under the licensing and environmental health regimes and the historic nature of the public house use, officers consider that the proposal would not result in such an increase in late evening disturbance so as to warrant refusal of the proposal on amenity grounds.
- 8.30 In addition to noise disturbance as discussed above, policy DM25 of the Managing Development Document also requires development not to result in an unacceptable increase in privacy intrusion, overlooking, light pollution or sense of enclosure and to safeguard the outlook, daylighting and sunlighting conditions to surrounding residential properties.
- 8.31 The only residential occupiers whose outlook, sense of enclosure or daylighting conditions could potentially be affected are those at 4 Coborn Road, directly to the south of the application site. The impact could potentially arise from the proposed erection of a 3m high single storey rear extension covering the rear garden of No. 6 Coborn Road. It is noted that a planning application for erection of a substantial single storey rear extension to the residential property at No. 4 has been approved on 19th December 2013 (ref PA/13/02740) and the scheme's architect has confirmed to officers that construction works have already commenced. It is thus considered that the proposal would not result in an unacceptable sense of enclosure or a reduction to outlook or daylight at No 4 Coborn Road.
- 8.32 Furthermore, it is considered unlikely for the glazed roof lights to result in any significant light pollution. The privacy of neighbours would also not be affected as no direct lines of sight would be created. The amenity impact of increased deliveries would also not be significant.

#### Design and Heritage

- 8.33 Section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990, requires Local Planning Authorities to pay special regard to the desirability of preserving the setting of statutory listed buildings and safeguarding their special historic and architectural significance. A similar duty has been introduced by Section 72 of the aforementioned Act with regards to development affecting the character and appearance of Conservation Areas.

- 8.34 The National Planning Policy Framework emphasizes the importance of preserving heritage assets and requires any development likely to affect a heritage asset or its setting to be assessed in a holistic manner. The relevant London Plan policies are policies 7.4, 7.6 and 7.8 which broadly aim to ensure the highest architectural and design quality of development and require for it to have special regard to the character of its local context.
- 8.35 The Council's Core Strategy strategic objective SO22 aims to "Protect, celebrate and improve access to our historical and heritage assets by placing these at the heart of reinventing the hamlets to enhance local distinctiveness, character and townscape views". This is to be realised through strategic policy SP10 which aims to protect and enhance borough's conservation areas and statutory listed buildings and to preserve or enhance the wider built heritage and historic environment of the borough. Policy SP10 also sets out the broad design requirements for new development to ensure that buildings, spaces and places are high-quality, sustainable, accessible, attractive, durable and well integrated with their surrounds. The aims of policy SP10 with regards to design and heritage are realised through detailed policies DM24 and DM27 of the Managing Development Document, respectively.
- 8.36 Specific criteria for rear extensions to buildings located in Conservation Areas are given in paragraph 27.7 of policy DM27. Rear extensions may be allowed provided they do not harm the significance, extend beyond the general rear building line of the terrace or group, not rise above the general height of extensions and do not destroy the uniformity or rhythm of the terrace or group.
- 8.37 The host property dates back to the mid-19th Century and is located within the Tredegar Square Conservation Area but does not carry a statutory heritage listing. There is, however, a large number of listed buildings in the vicinity, the closest being the Grade II listed terraces on either side of Coborn Road as well as the Grade II listed semi-detached villas on Coborn Street.
- 8.38 The host property has been extended on a number of occasions and rear extensions cover most of the area at rear of Nos. 8 and 10 Coborn Road. The area at rear of No. 6, which also forms part of the public house, has remained open with the exemption of an outbuilding at the end of the garden. Immediately to the south, at No.4 is a residential property with a part single, part double storey rear extension and construction works are ongoing to create a further single storey rear extension which would abut the proposed extension to the public house. Abutting to the east is the flank elevation of No. 7 Regal Place part of a 1990s two storey mews development.
- 8.39 The proposal involves erection of single storey extension covering the whole area at rear of No. 6 Coborn Road as well as infilling and extending further at the back of Nos. 8 and 10 Coborn Road. The single storey extension at No. 6 would have no window openings except for a double glazed timber rooflight located centrally, would be faced in matching London stock brick and covered in a green sedum roof to match the extension approved for the residential property at No. 4. The other infill extensions would cover areas generally already defined by existing extensions, high boundary walls and the flank wall of No. 7 Regal Place. These would also be faced in matching brick but would be located within the site, away from boundary with the residential property No. 12 Coborn Road. These extensions would have a felt roof and one timber roof light which would be located close to No.7 Regal Place. A walk-in kitchen would also be located within the rear yard. The proposed air-conditioning units would be located within the roof of the existing single storey extension, close to the rear elevation, while the extract system would run at first horizontally along the roof of the extension and then within a brick enclosure up the rear elevation to roof

level. The horizontal parts of the extract system and the air-conditioning plant would be obstructed from view by a low close boarded timber enclosure. It is noted that all of the proposed alterations relate to the area at rear which would not be visible from any of the local highways or publicly accessible areas within the Tredegar Square Conservation Area.

- 8.40 The Council's Conservation Officer has raised no objection to the proposal in light of the site being framed by the presence of existing extensions and back garden development as well as the approved works to extend the adjoining residential property. The proposal would not result in harm to the character and appearance of the Tredegar Square Conservation Area. The setting of adjoining Grade II listed buildings would not be affected.
- 8.41 Overall, it is considered that the proposed extension would be of an appropriate appearance, scale and use of materials and relate satisfactorily to the host building and the site's context. The proposal would preserve the appearance and character of the Tredegar Square Conservation Area and would not affect the setting of the nearby Grade II listed buildings.

### Highways

- 8.42 Policy 6.3 of the London Plan and SP09 of the Core Strategy aim to ensure that development has no unacceptable impact on the safety and capacity of the transport network. This is supported by part 2 of policy DM20 of the Managing Development Document. Furthermore, policy 6.3 of the London Plan and policy DM22 of the Managing Development Document set minimum standards for bicycle parking for staff.
- 8.43 The site is located on the eastern side of Coborn Road, an adopted highway, some 70m off Bow Road (A11) which forms part of the Transport for London Road Network. The site enjoys excellent public transport accessibility with a PTAL rating of 6a. A Cycle Superhighway and a number of bus services run along the A11 corridor. The site is also only just over 300m walking distance to the Mile End Underground Station.
- 8.44 The Council's Highways section raises no objection to the application subject to two cycle parking spaces being provided for staff - this would be secured by condition. Highways Officers raise no concerns with regards to the additional trips which would be generated by the development, given the nature of the public house use and good public transport connections.
- 8.45 Officers consider that with reference to transport matters including access, deliveries, servicing and parking, the proposed extension works would be acceptable and accord with policy.

## **9.0 HUMAN RIGHTS CONSIDERATIONS**

- 9.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 9.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English

law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-

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

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

9.4 Members need to satisfy themselves that the potential adverse impacts from noise and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.

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

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

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

## **10.0 EQUALITIES ACT CONSIDERATIONS**

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

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

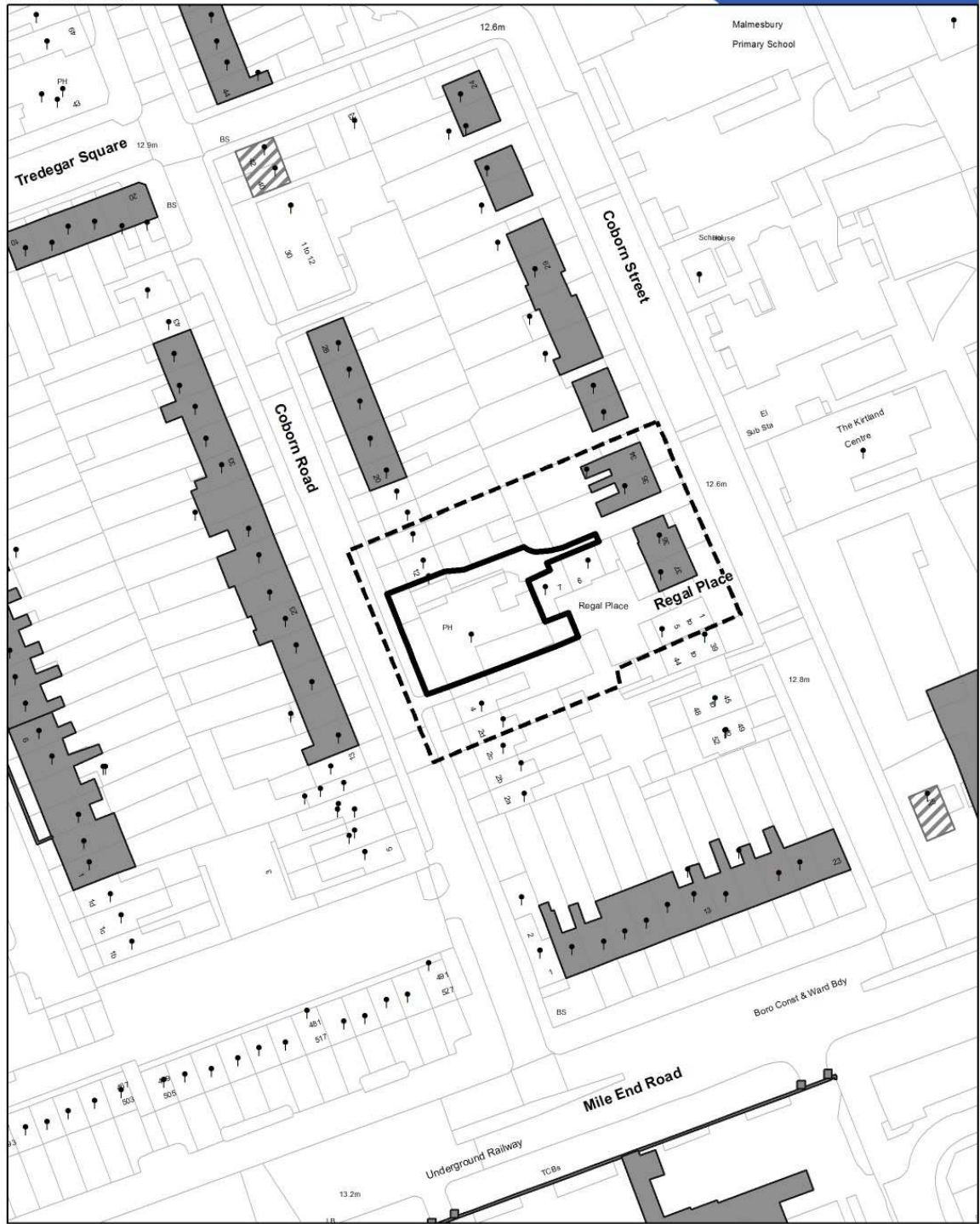
- foster good relations between persons who share a relevant protected characteristic and persons who do not share it.

## **11.0 CONCLUSION**

11.1 All other relevant policies and considerations have been taken into account. Planning permission should be APPROVED.

## **12.0 SITE MAP**

**Planning Application Site Map**  
**PA/13/02287**



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

This Site Map displays the Planning Application Site Boundary and the neighbouring Occupiers / Owners who were consulted as part of the Planning Application process.  
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**LONDON BOROUGH OF TOWER HAMLETS**

**DEVELOPMENT COMMITTEE**

**12<sup>th</sup> February 2014**

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**UPDATE REPORT OF HEAD OF PLANNING AND BUILDING CONTROL**

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**INDEX**

<b>Agenda item no</b>	<b>Reference no</b>	<b>Location</b>	<b>Proposal</b>
6.2	PA/13/02287	Coborn Arms, 6-10 Coborn Road	<ul style="list-style-type: none"><li>- Erection of single storey side extension to existing kitchen at rear with new extract system.</li><li>- Partial demolition of existing side extension at rear and erection of new extension to form new orangery dining area and herb garden.</li><li>- Erection of single storey side/rear extension to existing bar.</li><li>- Installation of new air-conditioning units and condensers onto existing flat roof.</li></ul>

**Agenda Item 6.2 - Coborn Arms, 6-10 Coborn Road ref PA/13/02287**

**1.0 LOCAL REPRESENTATION**

1.1 Following publication of the committee report, an objection letter with 42 signatories has been submitted by local residents. Of the 42 signatories, 37 have previously submitted individual objection letters. All of the issues raised in the letter have been raised previously and are addressed in the officers' report.

**2.0 CLARIFICATIONS**

2.1 Following publication of the committee report it has been brought to officers' attention that the hours of opening times set in the premises licence, specified in paragraph 8.26 of the report, page 46, are in fact the hours of licensable activities. The premises are allowed to open for a further 30 minutes every day.

**3.0 RECOMMENDATION**

3.1 Officers' recommendation remains as set out in the committee report.

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# Agenda Item 5.2

<b>Committee:</b> Development	<b>Date:</b> 9 April 2014	<b>Classification:</b> Unrestricted
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Piotr Lanoszka	<b>Ref No:</b> PA/13/02251
	<b>Ward:</b> Shadwell

## 1.0 APPLICATION DETAILS

**Location:** 375 Cable Street, London, E1 0AH

**Existing Use:** Hot Food Take-away (Use Class A5)

**Proposal:** Variation of condition 3 of planning permission granted by the Secretary of State for Communities and Local Government on 30th March 2011, reference APP/E5900/A/10/2141935/NWF, LBTH reference PA/07/03290, to allow opening hours from 9am - 10pm Sunday to Thursday and 9am - 11pm Fridays and Saturdays.

Approved Hours: 9am - 9pm Sunday to Thursday and 9am - 10pm Friday and Saturday

**Drawings and documents:** N/A

**Applicant:** Mr Tera Miah, Fried & Fabulous

**Ownership:** Freehold - London Borough of Tower Hamlets

**Historic Building:** None

**Conservation Area:** None

## 2.0 BACKGROUND

2.1 This application was reported to the Development Committee on the 12<sup>th</sup> February 2014 with officers' recommendation for **REFUSAL** for the following reason:

1. The proposed variation of the opening hours would result in an increase in late evening noise, disturbance and general activity in the vicinity of the premises and lead to an unacceptably harmful effect on the living conditions and amenity of the residents living directly above and adjoining the premises, and along Cable Street. This would be contrary to the general principles of the National Planning Policy Framework (2012), policy 7.15 of the London Plan (2011), policy SP03(2B) of the Core Strategy (2010), and policy DM25 of the Managing Development Document (2013). These policies require development to protect, and where

possible improve, the amenity of surrounding existing and future building occupants, as well as the amenity of the surrounding public realm.

2.2 The Committee resolved **NOT TO ACCEPT** officer's recommendation to refuse planning permission. Officers recorded that Members were minded to **GRANT** permission for the following reasons:

1. The lack of formal evidence that the premises were responsible for anti-social behaviour and that the extended hours would cause harm to the amenity of local residents.
2. The number of similar premises that operate with late night hours.
3. To consider the option of a temporary consent with alternative hours (for example a closing time of 10:30 pm, Fridays and Saturdays).
4. That, in view of the current economic climate, it was important to support a local family run business.

2.3 The application was **DEFERRED** to enable officers to prepare a supplementary report to a future meeting of the Committee.

### **3.0 OFFICER COMMENTARY**

3.1 The aforementioned reasons given by Members for overturning officers' recommendation will be addressed in turn.

3.2 Members were concerned by lack of formal evidence that the premises are responsible for anti-social behaviour and that the extended operating hours would cause harm to the amenity of local residents.

3.3 Following the committee meeting of 12<sup>th</sup> February 2013 officers have approached the Council's Safer Communities - Antisocial Behaviour Section who on 14<sup>th</sup> March 2014 confirmed that one complaint has been received in relation to the premises. The complaint related to drug dealing in the vicinity of the premises and the investigation by the ASB team was inconclusive. Officers have also contacted the Metropolitan Police Shadwell Safer Neighbourhoods Team and the MET Secure by Design Officer but to date received no formal response.

3.4 Officers are not in possession of local authority or police records demonstrating that the application premises give rise to or facilitate antisocial behaviour or other amenity disturbance to neighbours, however, it is clearly evident from the number of objection letters received from local residents and from the testimony of the speaker at the 12<sup>th</sup> February committee that the operation of the premises already adversely affects the amenity of neighbours, as outlined in the 12<sup>th</sup> February report.

3.5 Following the committee meeting, a local resident has submitted a log with pictures as well as a letter from Jim Fitzpatrick MP. The log covers one week between 17<sup>th</sup> and 23<sup>rd</sup> February and documents incidents of urinating in doorways and littering, in the area directly opposite the take-away. The letter from Jim Fitzpatrick MP quotes a letter from Eastend Homes' Chief Executive Paul Bloss stating that residents of the nearby Glamis Estate have made complaints about the operation of the take-away shop and that Eastend Homes support the residents' concerns.

- 3.6 Members were minded to consider the proposal more favourably due to the number of similar establishments that operate with late night opening hours. However, most hot food take-aways in the borough are located within either designated town centres or within local shopping parades along main roads. Longer opening hours in such locations can be justified due to the high degree of commercial activity, the amount of pedestrian and vehicular traffic and the background noise climate. The application premises, as detailed in paragraphs 9.8-9.10 of the 12<sup>th</sup> February 2014 report, are located in a residential rather than a commercial area and are not located on a main road or adjoining a public transport hub. There is very little pedestrian or vehicular traffic and no commercial activity in the vicinity of the site during late evenings. It is evident that the character of the vicinity of the application site including its immediate setting differs substantially from the character of the surroundings of most other take-aways in the borough.
- 3.7 With regard to the option of a temporary 'trial run' consent or a consent for a lesser extension of opening hours, it is considered that such options would not be appropriate in this instance as the public consultation responses received clearly indicate that the operation of the premises already results in disturbance and nuisance. This adverse amenity impact is currently restricted to the approved opening hours and, if the current application was approved, the adverse impact would increase by being extended later into the evening, to the detriment of neighbours' living conditions and contrary to local, regional and national planning policies aiming to safeguard amenity of residential occupiers.
- 3.8 Members will be aware that consistency of decision making and due regard to decisions made by a higher authority, such as by an Inspector appointed by the Secretary of State for Communities and Local Government, are material planning considerations. Officers consider that no material change occurred in the character of the vicinity of the application premises since the date of the Planning Inspectorate decisions and that Members should therefore attach significant weight to these appeal decisions as summarised below.
- 3.9 As outlined in the 12<sup>th</sup> February report, the first appeal has been dismissed in part due to the late opening hours proposed (until 22:30 all week) which in Inspector's opinion would result in introduction of late evening activity to a residential area to the detriment of residents' amenity. In the second appeal decision - which allowed the opening of the hot food take-away, the Planning Inspector considered that the use would be acceptable with regard to its amenity impact only if it was subject to a closing time of 21:00 Sunday to Thursday and 22:00 on Fridays and Saturdays. The Inspector noted that up to this time a certain level of noise and outside disturbance is to be expected in an urban location and that these restricted hours would mean that the premises would not attract trade from public houses and clubs after they close later in the evening, this having a particularly high potential for noise, anti-social activity and general disturbance. The Inspector also noted that such opening times would allow an appropriate balance to be struck between business viability and residents' living conditions.
- 3.10 In conclusion, officers maintain their recommendation to **REFUSE** permission and consider that the hours of operation requested in this application are not compatible with the residential character of this part of Cable Street and that extending the opening hours would lead to an unacceptable increase in late evening noise, disturbance and general activity to the detriment of neighbours' amenity, which would be contrary to national, regional and local planning policy. In officers' view this harm to amenity would not be outweighed by the likely insignificant economic benefits resulting from the proposal.

#### **4.0 RECOMMENDATION**

- 4.1 The officers' recommendation as at 12<sup>th</sup> February 2014 to refuse planning permission remains unchanged. Accordingly, the Committee are recommended not to approve the application and to resolve to **REFUSE** planning permission for the reason set out in paragraph 2.1.
- 4.2 If members determine to approve the application it is recommended that the varied condition should read as follows:

*The premises shall be closed to customers outside the following times: 09:00 to 22:00 Sunday to Thursday; and 09:00 to 23:00 on Fridays and Saturdays.*

*Reason: To safeguard the amenity of adjoining occupiers.*

#### **5 APPENDICES**

- 5.1 Appendix One - Report to Development Committee 12<sup>th</sup> February 2014

<b>Committee:</b> Development	<b>Date:</b> 12 February 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Applications for Planning Permission
<b>Case Officer:</b> Piotr Lanoszka	<b>Ref No:</b> PA/13/02251
	<b>Ward:</b> Shadwell

## 1.0 APPLICATION DETAILS

**Location:** 375 Cable Street, London, E1 0AH

**Existing Use:** Hot Food Take-away (Use Class A5)

**Proposal:** Variation of condition 3 of planning permission granted by the Secretary of State for Communities and Local Government on 30th March 2011, reference APP/E5900/A/10/2141935/NWF, LBTH reference PA/07/03290, to allow opening hours from 9am - 10pm Sunday to Thursday and 9am - 11pm Fridays and Saturdays.

Approved Hours: 9am - 9pm Sunday to Thursday and 9am - 10pm Friday and Saturday

**Drawings and documents:** N/A

**Applicant:** Mr Tera Miah, Fried & Fabulous

**Ownership:** Freehold - London Borough of Tower Hamlets

**Historic Building:** None

**Conservation Area:** None

## 2.0 EXECUTIVE SUMMARY

2.1 The applicant seeks permission to extend the opening times of the 'Fried & Fabulous' hot food take-away from 21:00 to 22:00 Sunday to Thursday and from 22:00 to 23:00 on Fridays and Saturdays.

2.2 The main issue for Members to consider is whether the proposed extension of opening hours would result in an increase in late evening noise, disturbance and general activity in the locality and whether this would have an unacceptable impact on the amenity of local residents.

2.3 Members' attention is drawn to the two previous decisions of the Planning Inspectorate regarding operation of a hot food take-away at the site. The first appeal

has been dismissed in part due to the late opening hours proposed (until 22:30 all week) which in Inspector's opinion would result in introduction of late evening activity to a residential area to the detriment of residents' amenity. In the second appeal decision - which allowed the opening of the hot food take-away, the Planning Inspector considered that the use would be acceptable with regards to its amenity impact only if it was subject to a closing time of 21:00 Sunday to Thursday and 22:00 on Fridays and Saturdays. The Inspector noted that up to this time a certain level of noise and outside disturbance is to be expected in an urban location and that these restricted hours would mean that the premises would not attract trade from public houses and clubs after they close later in the evening, this having a particularly high potential for noise, anti-social activity and general disturbance. The Inspector also noted that such opening times would allow an appropriate balance to be struck between business viability and resident's living conditions.

- 2.4 Officers accept that in the later hours of the evening most residential occupiers have legitimate expectations to enjoy quieter periods and a peaceful living environment. Although the residents live in an urban environment, the site is not located in a town centre or in an edge of town centre location where there might be a reasonable expectation of noise and activity later into the evening.
- 2.5 In conclusion, officers consider that the hours of operation requested in this application are not compatible with the residential character of this part of Cable Street and that extending the opening hours would lead to an unacceptable increase in late evening noise, disturbance and general activity to the detriment of neighbours' amenity, which would be contrary to national, regional and local planning policy.

### **3.0 RECOMMENDATION**

- 3.1 That the Committee resolve to **REFUSE** planning permission for the reason below:
- 3.2 The proposed variation of the opening hours would result in an increase in late evening noise, disturbance and general activity in the vicinity of the premises and lead to an unacceptably harmful effect on the living conditions and amenity of the residents living directly above and adjoining the premises, and along Cable Street. This would be contrary to the general principles of the National Planning Policy Framework (2012), policy 7.15 of the London Plan (2011), policy SP03(2B) of the Core Strategy (2010), and policy DM25 of the Managing Development Document (2013). These policies require development to protect, and where possible improve, the amenity of surrounding existing and future building occupants, as well as the amenity of the surrounding public realm.

### **4.0 PROPOSAL AND LOCATION DETAILS**

#### **Proposal**

- 4.1 In March 2011 planning permission was granted on appeal for the change of use from retail (Use Class A1) to hot food take-away (A5) at 375 Cable Street (planning reference PA/07/03290, appeal reference APP/E5900/A/10/2141935).
- 4.2 Permission was granted subject to a condition restricting the time at which the hot food take-away can operate. The condition states:

*The premises shall be closed to customers outside the following times: 09:00 to 21:00 Sunday to Thursday; and 09:00 to 22:00 on Fridays and Saturdays.*

- 4.3 The condition was imposed in the interest of residential amenity.
- 4.4 The applicant seeks to vary this condition to change the opening times to 10:00 to 22:00 Sunday to Thursday and 10:00 to 23:00 on Fridays and Saturdays. In consequence, the hot food take-away would be allowed to open and close one hour later, all week.

### **Site and Surroundings**

- 4.5 The application relates to 'Fried & Fabulous' a hot food take-away located within the ground floor of Fisher House, a four storey post-war public housing building located on the northern side of Cable Street, some 400m east of the Watney Market District Town Centre.
- 4.6 The vicinity of the site is of a residential character with only one other commercial unit, a convenience shop (Use Class A1) located at 377 Cable Street, directly adjoining the application site. The closest residential properties are located above and directly adjoining the application premises, as well as along both sides of Cable Street.
- 4.7 The application site is located in an out of town centre location, carries no policy designations and there are no statutory listed buildings or conservation areas in its immediate vicinity.
- 4.8 Cable Street is a one-way adopted highway which also houses a fully segregated stretch of the Cycle Super Highway between the City and Barking. The site benefits from good public transport accessibility and is within short walking distance, approximately 400m, of Shadwell Overground and DLR train stations.

### **Planning History**

- 4.9 The application site has an extensive planning history. The first application for change of use from retail to a hot food take-away (ref PA/07/01104) was refused on 03/09/2007 with the subsequent appeal (ref APP/E5900/A/08/2063532) dismissed. The Planning Inspector on that occasion concluded that the proposal would be harmful to residents' living conditions due to excessive noise disturbance during evening hours (up to 22:30 all week).
- 4.10 A further application was made (ref PA/07/03290) and considered by the Committee in March 2008 when it received an officer recommendation for refusal. However, the Committee resolved to approve it subject to the opening times being reduced to 09:00 to 21:00 Sunday to Thursday, and 09:00 to 22:00 on Fridays and Saturdays. Subsequently a decision granting planning permission was issued in May 2008. A claim for judicial review followed in July 2008 (Case No CO/6311/2008). The Court ordered that the Council's decision be quashed because the reasons given for granting permission were inconsistent with the reasons given by the Committee at their meeting.
- 4.11 The application was returned to Committee in April 2009 with an officer recommendation for approval and was approved by Members at that meeting. However, a further claim for judicial review was lodged in July 2009 (Case No CO/7061/2009). The Court ruled that the planning permission should once again be quashed because Members should not have been advised that a school's healthy eating policy was not capable of being a material consideration.

- 4.12 Following this judgement, the application was reported to Committee for a third time in September 2009. On this occasion, an officer recommendation to approve the application was overturned by Members. The application was refused for health-related and highway reasons. The applicant has challenged the Council's refusal and successfully appealed (ref APP/E5900/A/10/2141935).
- 4.13 A Planning Enforcement Investigation (ref ENF/10/00115) was opened to investigate alleged non-compliance with conditions stipulating the details of the kitchen extract system and specifying opening hours.

## **5.0 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 Government Planning Policy**

National Planning Policy Framework 2012

### **5.3 London Plan 2011 with Revised Early Minor Alterations published 11/10/2013**

- 4.7 - Retail and town centre development
- 7.15 - Reducing noise and enhancing soundscapes

### **5.4 Core Strategy 2010**

- SP01 - Refocusing on our town centres
  - SP03 - Creating Healthy and Liveable Neighbourhoods
  - SP06 - Delivering successful employment hubs
  - SP10 - Creating Distinct and Durable Places
- 
- SO6 - Refocusing on our town centres
  - SO16 - Delivering successful employment hubs

### **5.5 Managing Development Document 2013**

- DM0 - Delivering sustainable development
- DM1 - Development within the town centre hierarchy
- DM25 - Amenity

### **5.6 Supplementary Planning Documents**

N/A

## **6.0 CONSULTATION RESPONSE**

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

### **LBTH Environmental Health**

- 6.3 No objection.



## 7.0 LOCAL REPRESENTATION

7.1 A total of 1133 letters were sent to neighbours and interested parties. Two site notices were displayed on 6th November 2013.

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

No of individual responses:                      Objecting: 69                      Supporting: 31

No of petitions received:                      1 in support with 199 signatories

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

- Disturbance resulting from youths loitering outside the premises
- Proposed hours of opening inappropriate in a residential area
- General noise and nuisance would increase, further deteriorating neighbours' quality of life and amenity
- Customers engage in anti-social behaviour, littering and drug dealing. This would be exacerbated by longer opening hours
- A number of residents note that the current amount of trade at the takeaway and the premises' location does not warrant further hours of business and that the longer opening hours should not be justified due to the need of customers working late shifts as there are other nearby hot food takeaways which already open late
- Current opening hours are reasonable as they ensure that when the hot food takeaway closes the noise and disturbance dissipate and residents can enjoy some relief and get some sleep. Quiet periods during late evenings are very important to residents' quality of life.

[Officer comment: these issues will be addressed in the material planning considerations section of the report]

- The business is already trading outside the permitted hours

[Officer comment: this application was submitted as a result of a Planning Enforcement Investigation (ref ENF/10/00115), however the breaches that occurred in the past and have now ceased or been resolved are not considered to be a matter that should be given significant weight in the consideration of this application]

7.4 The following issues were raised in representations supporting the proposal:

- Convenience for people living and working in the area, in particular for patrons who work until evening hours
- There is community support for the take-away use which meets the needs of local people and provides a range of food

[Officer comment: these issues will be addressed in the material planning considerations section of the report]

## **8.0 PROCEDURAL MATTERS**

- 8.1 Section 73 of the Town and Country Planning Act 1990 allows for an application to be made to develop land without compliance with conditions previously attached or to grant planning permission subject to conditions that differ from those previously imposed. S73 states that on receipt of such an application the local planning authority shall consider only the question of the conditions subject to which planning permission should be granted and that the effect of granting an application under S73 is a new planning permission.
- 8.2 In accordance with tests set out in Circular 11/95 and paragraph 206 of the NPPF, planning conditions should only be imposed where they are necessary, relevant to planning and to the development to be permitted, enforceable, precise and reasonable in all other respects.
- 8.3 The applicant wishes to vary the opening hours to enable operation between 10:00 to 22:00 Sunday to Thursday and 10:00 to 23:00. In effect the premises would open an hour later and close an hour later, all week.
- 8.4 As premises were previously allowed on appeal to operate from 09:00 and this was considered satisfactory with regards to residential amenity impacts, it would be unreasonable and unnecessary for the local planning authority to further restrict the morning opening time as per applicant's request. For that reason, Members are requested to consider only the implications of extending the opening hours by one hour in the evening with the morning opening time remaining as previously approved.
- 8.5 As such, members should consider the following proposed wording of the condition:

*The premises shall be closed to customers outside the following times: 09:00 to 22:00 Sunday to Thursday; and 09:00 to 23:00 on Fridays and Saturdays.*

*Reason: To safeguard the amenity of adjoining occupiers.*

## **9.0 MATERIAL PLANNING CONSIDERATIONS**

- 9.1 The main planning issue raised by this application that the Committee must consider is whether the proposed extension of opening hours would result in an increase in late evening noise, disturbance and general activity in the locality and whether this would have an unacceptable impact on the amenity of local residents. In reaching a decision Members should balance any possible adverse amenity impact arising from extended opening hours against benefits which longer opening hours could bring to the local economy and viability of the business. Officers consider that the proposal would not raise any highways issues, impact on the vitality and viability of the nearby town centres or detract from local residents' ability to adopt healthy lifestyles.
- 9.2 The National Planning Policy Framework sets out the Government's land use planning and sustainable development objectives. The framework identifies a holistic approach to sustainable development as a core purpose of the planning system and requires the planning system to perform three distinct but interrelated roles: an economic role, a social role and an environmental role. These roles are mutually dependant and should not be undertaken in isolation.

- 9.3 According to paragraph 109 of the NPPF the planning system should contribute to and enhance the natural and local environment by preventing development from contributing to noise pollution which could adversely affect surrounding existing development. Of particular relevance to the control of noise pollution through planning is paragraph 123 of the NPPF which specifies that planning policies and decisions should aim to
- avoid noise from giving rise to significant adverse impacts on health and quality of life;
  - mitigate and reduce to minimum other adverse impacts on health and quality of life arising from noise, including through the use of conditions;
  - recognise that development will often create some noise and existing businesses wanting to develop in continuance of their business should not have unreasonable restrictions put on them because of changes in nearby land use since they were established; and
  - identify and protect areas of tranquillity which have remained relatively undisturbed by noise and are prized for their recreational and amenity value for this reason.
- 9.4 Policy 7.15 of the London Plan acknowledges that reducing noise pollution and protecting good soundscape quality contributes to improving quality of life, and consequently requires development proposals to seek to reduce noise by minimising the existing and potential adverse impact of noise.
- 9.5 The Council's Core Strategy policy SP03(2B) seeks to address the impact of noise pollution in the Borough by managing the impact of noise created by the night-time economy through planning controls while policy DM25 specifies that in seeking to protect the amenity of surrounding existing and future residents and building occupants, as well as the amenity of the surrounding public realm, development should not create unacceptable levels of noise.
- 9.6 There are two potential sources of noise disturbance which could affect the amenity of neighbouring residential occupiers as a result of this application. The first is the noise arising from operation of the extract system located at the back of the premises. As the extract system was constructed in accordance with requirements of the Council's Environmental Health Officers and they raise no objection to the extended hours, it is considered that any nuisance arising from extended operation of the extract system would not warrant refusal on amenity grounds.
- 9.7 The second potential source of disturbance is that which could arise from comings and goings as well as from patrons congregating outside the premises. It is this second source of disturbance which could have a particularly pronounced effect on the amenity of adjoining occupiers during the quieter evening periods.
- 9.8 The Fried & Fabulous hot food take-away is located within a ground floor of a residential block, with flats located both above as well as directly adjacent to the application premises. Furthermore, there are residential properties on either side of Cable Street, in both directions from the application site.
- 9.9 The character of the area is residential with only one other commercial unit - a convenience store in the adjoining unit at 377 Cable Street. The dominant source of noise in the area is from traffic along the one-way Cable Street, from passers by including cyclists and from the nearby DLR railway line located to the north of the application site.

- 9.10 It is important to note that while Cable Street can be a busy thoroughfare during the morning and afternoon peak hours, the street is more peaceful later into the evening with minimal motor vehicle or bicycle traffic. It appears that during the later hours what limited activity there is in the area consists of local residents walking home from nearby train stations and bus stops. There is little footfall after the afternoon rush hour and the soundscape is of a relatively peaceful, quiet character - notwithstanding an occasional muted sound of a DLR train passing to the north of the application site.
- 9.11 The nearest town centre is the Watney Market District Centre located approximately 400m to the west. This centre is within a short walking distance away and contains a range of shops and services including a range of cafes and hot food take-aways which are open until late into the evening. There is also a number of hot food take-away premises located along the northern side of Commercial Road, also some 400m walking distance.
- 9.12 While a petition in support as well as a number of support letters were received, the Council has also received a substantial number of objections from residents living adjoining to and in the vicinity of the application premises. The objectors are concerned that the hot food take-away use - which already leads to disturbance during evening hours, would be extended further into the evening to the detriment of their amenity and living standards. In particular, residents are concerned about groups of youths loitering outside the premises leading to noise disturbance, littering and anti-social behaviour; while the supporters note the convenience of having a local hot-food take-away open into later in the evening.
- 9.13 The two previous decisions of the Planning Inspectorate regarding operation of a hot food take-away at the site are of note. The first appeal has been dismissed in part due to the late opening hours proposed (until 22:30 all week) which in Inspector's opinion would result in introduction of late evening activity to a residential area to the detriment of residents' amenity.
- 9.14 In the second appeal decision - which allowed the opening of the hot food take-away, the Planning Inspector considered that the use would be acceptable with regards to its amenity impact only if it was subject to a closing time of 21:00 Sunday to Thursday and 22:00 on Fridays and Saturdays. The Inspector noted that up to this time a certain level of noise and outside disturbance is to be expected in an urban location and that these restricted hours would mean that the premises would not attract trade from public houses and clubs after they close later in the evening, this having a particularly high potential for noise, anti-social activity and general disturbance. The Inspector also noted that such opening times would allow an appropriate balance to be struck between business viability and resident's living conditions.
- 9.15 Officers acknowledge that in the later hours of the evening most residential occupiers have legitimate expectations to enjoy quieter periods and a peaceful living environment. Although the residents live in an urban environment, the site is not located in a town centre or in an edge of town centre location where there might be a reasonable expectation of noise and activity later into the evening.
- 9.16 As discussed above, the background noise climate or the soundscape within the vicinity of the site, after the afternoon peak hour, is of a quiet character for an urban area, with little vehicular traffic and few pedestrians. There is no commercial activity nearby during late evening hours. As such, the extension of opening times by one hour, up to 22:00 Sunday to Thursday and 23:00 on Fridays and Saturdays, would introduce additional activity into the area and would result in further disturbance to neighbours' amenity and living conditions.

- 9.17 While the applicant and some supporters argue that there is demand from customers to extend the trading hours to reflect their working schedules, there are many other hot food take-aways and restaurants which are open until late within a short walking distance away, within the town centre of Watney Market and on Commercial Road.
- 9.18 In conclusion, officers consider that the hours of operation requested in this application are not compatible with the residential character of this part of Cable Street and that extending the opening hours would lead to an unacceptable increase in late evening noise, disturbance and general activity to the detriment of neighbours' amenity, which would be contrary to national, regional and local planning policy.

## **10.0 HUMAN RIGHTS CONSIDERATIONS**

- 10.1 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. In the determination of a planning application the following are particularly highlighted to Members:
- 10.2 Section 6 of the Human Rights Act 1998 prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights. "Convention" here means the European Convention on Human Rights, certain parts of which were incorporated into English law under the Human Rights Act 1998. Various Convention rights are likely to be relevant, including:-
- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by law in the determination of a person's civil and political rights (Convention Article 6). This includes property rights and can include opportunities to be heard in the consultation process;
  - Rights to respect for private and family life and home. Such rights may be restricted if the infringement is legitimate and fair and proportionate in the public interest (Convention Article 8); and
  - Peaceful enjoyment of possessions (including property). This does not impair the right to enforce such laws as the State deems necessary to control the use of property in accordance with the general interest (First Protocol, Article 1). The European Court has recognised that "regard must be had to the fair balance that has to be struck between the competing interests of the individual and of the community as a whole".
- 10.3 This report has outlined the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the Council as local planning authority.
- 10.4 Were Members minded not to follow officers' recommendation, Members need to satisfy themselves that the potential adverse impacts from noise and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.
- 10.5 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate.

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

10.7 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.

## **11.0 EQUALITIES ACT CONSIDERATIONS**

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

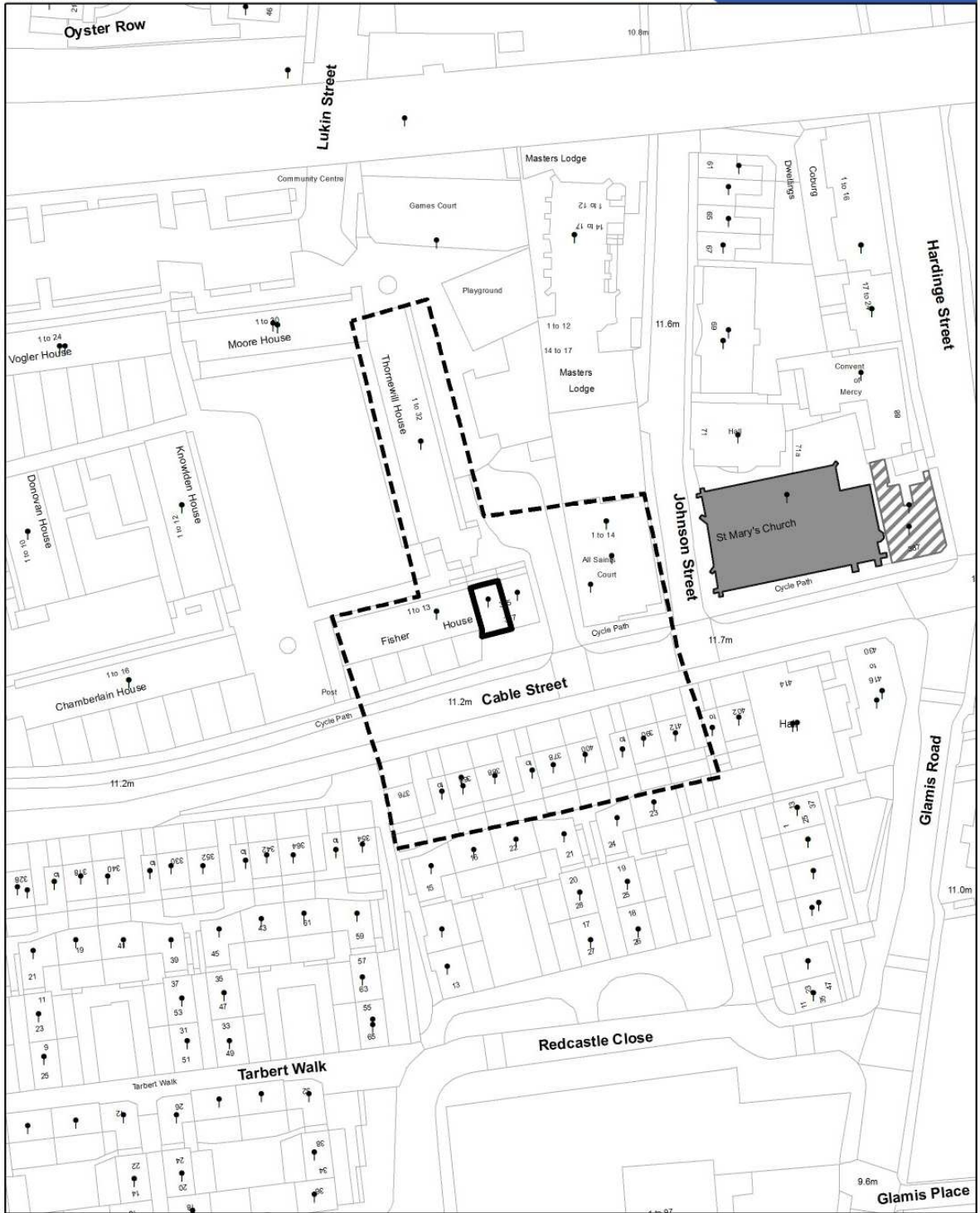
- eliminate discrimination, harassment, victimisation and any other conduct that is prohibited by or under the Act;
- advance equality of opportunity between persons who share a relevant protected characteristic and persons who do not share it; and
- foster good relations between persons who share a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

## **12.0 CONCLUSION**

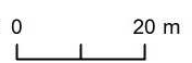
12.1 All other relevant policies and considerations have been taken into account. Planning permission should be REFUSED for the reasons set out in the MATERIAL PLANNING CONSIDERATIONS section of this report.

## **13.0 SITE MAP**

**Planning Application Site Map**  
**PA/13/02251**



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



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

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# Agenda Item 5.3

<b>Committee:</b> Development	<b>Date:</b> 9 <sup>th</sup> April 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Town Planning Application
<b>Case Officer:</b> Adrian Walker	<b>Ref No:</b> PA/13/02318
	<b>Ward:</b> Whitechapel

## 1. APPLICATION DETAILS

<b>Location:</b>	93 New Road, London, E1 1HH
<b>Existing Use:</b>	Retail (Use Class A1)
<b>Proposal:</b>	Proposed change of use from a retail shop A1 into a restaurant A3. Installation of extract flue at rear.
<b>Drawing Nos/Documents:</b>	KOM/177-32, KOM/177-31 Location Plan, Design and Access Statement, Impact Statement
<b>Applicant:</b>	Mr T. Parvez
<b>Ownership:</b>	Mr T. Parvez
<b>Historic Building:</b>	No
<b>Conservation Area:</b>	Myrdle Street

## 2. BACKGROUND

- 2.1 This application was reported to the Development Committee on the 12<sup>th</sup> March 2014 with officers' recommendation for APPROVAL. A copy of the report is attached at Appendix B for ease of reference.
- 2.2 The Committee resolved NOT TO ACCEPT officers' recommendation to grant planning permission. Officers recorded that the Members were minded to REFUSE planning permission for the following reasons:-
- Overconcentration of A3 restaurant uses in the area.
  - Impact of the proposal on residential amenity in terms of increased noise and disturbance and Anti-Social Behaviour arising from the activities based on the evidence of local residents.
- 2.3 It was noted that Officers will bring further report back to the Committee setting out the detailed reasons for refusal and the implications of the decision.

## 3. REASONS FOR REFUSAL

- 3.1 Officers have drafted the following reason for refusal based on the concerns raised by Members:-
- 3.2 The proposed restaurant would add to the proliferation this use along New Road. This will result in an over-concentration of this type of use and detract from the objectives of Core Strategy policy SP01, which seeks to promote a vibrant mix of uses in the designated Tower Hamlets Activity Area. The over-concentration of

restaurant uses in the area will lead to adverse impacts on residential occupiers of the area in terms of increased noise & disturbance from patrons coming and going and Anti-Social Behaviour arising from the activities based on the evidence of local residents. The proposal is therefore contrary to the objectives of policies SP01(2c) of the adopted Core Strategy (2010) and policy DM1(4) of the adopted Managing Development (2013).

#### **4. CONSIDERATION**

4.1 Members will be aware that consistency of decision making represents a material planning consideration. Members are reminded that at Development Committee on 12th October it was resolved to approve planning permission for the change of use of 85 New Road from retail to a restaurant. When considering the case at 85 New Road Members concluded the proposal was acceptable because-

- i) there was a lack of evidence that there was an over - concentration of restaurant uses in the area; and
- ii) that there was a lack of clear policy guidance in relation to this matter

4.2 The policy position has changed slightly since the previous decision in that the newly published National Planning Policy Guidance is now a material consideration. However, it is not considered that this particularly changes the balance of issues being considered here, which still turns on the issue of the concentration of restaurants in the vicinity of the application site.

4.3 Given the policy position has not significantly changed since the previous decision, the key issue is the impact of the proposals on the concentration of restaurants. By taking the decision to refuse this application Officers suggest the inference of Members decision is that this is a case of 'one restaurant too many', and moving from 13 (36%) to 14 (39%) restaurants is the tipping point at which the concentration of restaurants becomes unacceptable. Officers consider that it is open for Members to come to this decision, but would remind Members that this decision will in itself become a material consideration that will need to be taken into account if any further restaurants proposals come forward along New Road.

#### **5. IMPLICATIONS OF DECISION**

5.1 Should Members decide to re-affirm their previous resolution and refuse planning permission there are a number of possibilities open to the Applicant. These would include (though not be limited to):-

- Resubmit an amended scheme to attempt to overcome the reasons for refusal. However, the scope of this is limited to the applicant due to Members' concerns in relation to the overconcentration of similar uses in the area and the impact of the proposal on residential amenity in terms of increased noise and disturbance and Anti-Social Behaviour arising from the activities based on the evidence of local residents.
- Appeal against the refusal of the scheme. Planning Inspectorate guidance on appeals sets out that:

5.2 "Planning authorities are not bound to accept the recommendations of their officers. However, if officers' professional or technical advice is not followed,

authorities will need to show reasonable planning grounds for taking a contrary decision and produce relevant evidence on appeal to support the decision in all respects. If they fail to do so, costs may be awarded against the Council”.

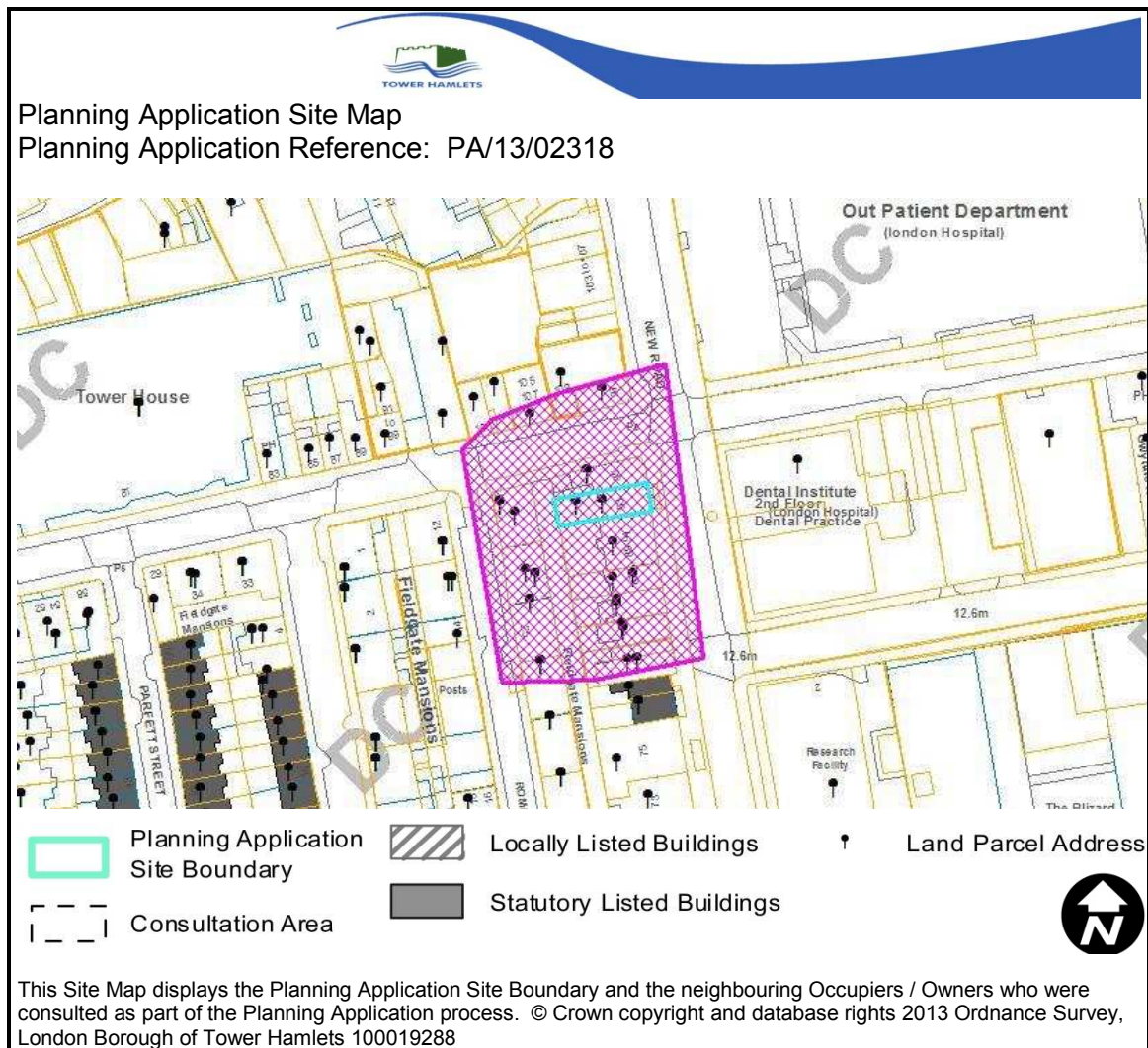
## 6. OFFICER RECOMMENDATION

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

## 7. APPENDICES

7.1 Appendix One – Report to Development Committee 12<sup>th</sup> March 2014

## 8.0 Site Map



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<b>Committee:</b> Development	<b>Date:</b> 12 <sup>th</sup> March 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Town Planning Application
<b>Case Officer:</b> Adrian Walker	<b>Ref No:</b> PA/13/02318
	<b>Ward:</b> Whitechapel

**1. APPLICATION DETAILS**

**Location:** 93 New Road, London, E1 1HH  
**Existing Use:** Retail (Use Class A1)  
**Proposal:** Proposed change of use from a retail shop A1 into a restaurant A3.  
**Drawing Nos/Documents:** KOM/177-32, KOM/177-31 Location Plan, Design and Access Statement, Impact Statement  
**Applicant:** Mr T. Parvez  
**Ownership:** Mr T. Parvez  
**Historic Building:** No  
**Conservation Area:** Myrdle Street

**2. SUMMARY OF MATERIAL PLANNING CONSIDERATIONS**

- 2.1 Given the mixed use nature of the area and the proximity of the unit to other shops and the Whitechapel District Centre it is considered that the loss of the A1 retail unit is acceptable, as there is a more than adequate provision of local shops in the area.
- 2.2 The proposed restaurant would only cater for 24 customers at one time and therefore it is considered that this number of patrons is not going to have a significant impact on the noise and disturbance of people coming and going to the detriment of the local residents.
- 2.3 The proposed restaurant would not result in an over-concentration of this type of use and is in accordance with objectives of Core Strategy policy SP01, which seeks to promote a vibrant mix of uses in the designated Activity Areas.
- 2.4 The proposed flue is discretely placed at the rear of the premises and will not be readily visible from the streetscene and would not harm to the character and appearance of the Myrdle Street Conservation Area.

**3. RECOMMENDATION**

- 3.1 That the Committee resolve to **GRANT** planning permission
- 3.2 Conditions on Planning Permission
  - (1) Time Limit (Three Years)
  - (2) Development to be built in accordance with approved plans
  - (4) Hours of operation limited to 8am-11pm Monday to Sunday
  - (5) Plant noise to be 10dB(A) below lowest background noise
  - (6) Provision and retention of bin store

## 4. PROPOSAL AND LOCATION DETAILS

### Proposal

- 4.1 The proposal seeks to change the use of the existing shop (Use Class A1) at 93 New Road to a restaurant (Use Class A3).
- 4.2 The main land use issues relate to
1. The loss of the retail unit,
  2. The concentration of restaurants in the area, and
  3. The provision of new restaurant floorspace.

### Site and Surroundings

- 4.3 The application site comprises the ground floor and basement of a four-storey terraced building.

The site is located on New Road. New Road has a mixed use character, with commercial uses predominant on the ground floor, with residential uses typically located above. To the South the Road becomes more residential. New Road is a relatively busy route linking Whitechapel High Street to Commercial Road. On the opposite side of the road from the site there are the larger buildings associated with the Royal London Hospital.

There are residential properties to the rear along Romford Road.

The site is located within the City Fringe Activity Area (which is part of the Tower Hamlets Activity Area). The site is outside the Town Centre boundary of the Whitechapel District Centre. The boundary of this centre lies approximately 50m to the North, past Stepney Way/Fieldgate Street.

The site is located within the boundary of the Whitechapel Vision SPD

The site is located within the Myrdle Street Conservation Area.

The site is not Listed.

### Planning History

#### 93 New Road London E1 1HH

- 4.4 **PA/10/02692** Change of use of ground floor and basement from Use Class A1 retail to Use Class A3 restaurant, together with installation of kitchen extract duct and flue to the rear elevation of the building. **Refused** 08/08/2011

#### Reasons:

1. The proposed Use Class A3 restaurant would result in an over concentration of similar uses within the local area, and that the cumulative impact and levels of disturbance associated with these uses would have a detrimental impact on local residents. The proposal is therefore contrary to the requirements of Policies SP01(2c) of the adopted Core Strategy (2010), saved Policy S7 of the Unitary Development Plan (1998) and Policy RT5 of the Interim Planning Guidance (2007). These policies seek to prevent the over-concentration of

evening and night-time economy uses where they would have a detrimental impact on residential amenity.

2. The proposed kitchen extract duct riser would neither preserve nor enhance the character and appearance of the Myrdle Street Conservation Area, which is contrary to the requirements of Policy SP10(2) of the Council's adopted Core Strategy (2010), saved Policy DEV27 of the Unitary Development Plan (1998), Policy CON2 of the Interim Planning Guidance (2007), Policy 7.8 of The London Plan, and government guidance set out in Planning Policy Statement 5: Planning for the Historic Environment (2010). These policies and government guidance seek to ensure that development proposals either preserve or enhance the character and appearance of the Borough's Conservation Areas.
  3. Insufficient information has been provided to demonstrate that the proposed kitchen extract system would adequately protect the amenity of neighbouring residents from undue odour nuisance. As such, the proposal is contrary to the requirements of Policy SP10(4) of the adopted Core Strategy (2010), saved Policies DEV2 and S7 of the Unitary Development Plan (1998) and Policy DEV1 of the Interim Planning Guidance (2007). These policies require development to protect, and where possible improve, the amenity of surrounding existing and future residents and building occupants, as well as protect the amenity of the surrounding public realm.
  4. Insufficient information has been provided to demonstrate that the proposed Use Class A3 restaurant includes adequate facilities for the storage and collection of waste and recyclables. The proposal is therefore contrary to the requirements of saved Policy DEV55 of the Unitary Development Plan (1998) and Policy DEV15 of the Interim Planning Guidance (2007). These policies require planning applications to be considered in light of the adequacy and ease of access to the development for waste collection and the adequacy of storage space for waste given the frequency of waste collections.
- 4.5 **PA/10/00957** Retention of use as a retail shop (Use Class A1) at ground floor and basement. **Permitted** 19/08/2010

### **Neighbouring Sites**

#### **85 New Road**

- 4.6 **PA/13/01607** Change of use at 85 New Road from shop (A1 use class) to restaurant (A3 use class) with rear extension to provide waiting area toilets (including one disabled) and seating for the existing restaurant at 87 New Road. **Permitted** 11/10/2013
- 4.7 **PA/13/01566** Variation of Condition 3 of Planning Permission dated 06/02/2009 Ref: PA/08/02662 to extend the hours of operation from between 10.00 am to 10.00 pm to between 11.30 am to 11.30 pm on any day. **Permitted** 11/10/2013
- 4.8 **PA/13/00823** Change of use at 85 New Road from shop (A1 use class) to restaurant (A3 use class) with rear extension to provide waiting area, toilets (including one disabled) and seating for the existing restaurant at 87 New Road (No new cooking and extraction facilities required now or in the future). - **Refused** 11/06/2013

**Reason:**

The proposed restaurant would add to the proliferation this use along New Road. This will result in an over-concentration of this type of use and detract from the objectives of Core Strategy policy SP01, which seeks to promote a vibrant mix of uses in the designated Tower Hamlets Activity Area. The over-concentration of restaurant uses in the area will lead to adverse impacts on residential occupiers of the area in terms of increased noise & disturbance from patrons coming and going to the restaurants. The proposal is therefore contrary to the objectives of policies SP01(2c) of the adopted Core Strategy (2010) and policy DM1(4) of the adopted Managing Development (2013).

### **83 New Road**

- 4.9 **PA/12/00605** Change of use from (A1) retail to mixed use coffee shop and restaurant (A1/A3) with no primary hot food cooking facilities, no associated extract flue system and seating area limited to ground floor only; including retention of No.4 AC units and alterations to shop front including new access door. **Refused** 23/11/2012

#### **Reasons:**

1. The restaurant element of the proposed use will have an adverse impact on the amenity of residents of the area by virtue of increased noise and disturbance associated with patrons coming and going. The proposal is therefore contrary to the objectives of policy SP01(2c) of the adopted Core Strategy (2010), policy S7 of the adopted Unitary Development plan 1998 and policy DM25(e) of the Managing Development DPD (Submission Version May 2012).
2. The restaurant element of the proposed use will result in the proliferation of such uses outside of a designated Town Centre, which is contrary to the objectives of policy DM1(4) of the Managing Development Development Plan Document (Submission Version 2012), which seeks to direct such uses into designated centres. The proposal will lead to the over-concentration of such uses in the area and as such is contrary to the objectives of policies SP01(2c) of the adopted Core Strategy (2010), policy S7 of the adopted Unitary Development plan 1998 and policy DM1(4) of the Managing Development DPD (Submission Version May 2012).

### **89-91 New Road**

4.10

- PA/10/02327** Change of use of ground floor from retail shop (Use Class A1) to restaurant (Use Class A3) with extract system. **Refused** 04/01/2011

#### **Reasons:**

1. The proposed Class A3 restaurant would result in an over concentration of similar uses within the local area, and that the cumulative impact and levels of disturbance associated with these uses would have a detrimental impact on local residents. The site is not located in a designated town centre. The proposal is therefore contrary to the requirements of Policies SP01(2c), SP03(2b) and SP10 of the adopted Core Strategy (2010) and Policy RT5 of the Interim Planning Guidance (2007), which seek to prevent the over-concentration of evening and night-time economy uses where they would have a detrimental impact on residential amenity.
2. The proposed extraction flue would have a detrimental impact on the appearance of the rear elevation of the building, and would detract from the



character and appearance of the Myrdle Street Conservation Area contrary to the requirements of Policy SP10(4) of the Core Strategy (2010), saved Policies DEV1 and DEV9 of the Unitary Development Plan (1998) and Policy DEV2 of the Interim Planning Guidance (2007).

3. Insufficient information has been provided to adequately demonstrate that the proposed kitchen extract system would protect neighbouring residential amenity with regard to noise disturbance. As such, the proposal is contrary to the requirements of Policy SP03(2b) and Policy SP10(4) of the adopted Core Strategy (2010), saved Policies DEV2, DEV50 and S7 of the Unitary Development Plan (1998) and Policies DEV1 and DEV10 of the Interim Planning Guidance (2007). These policies require development proposals to protect the amenity of surrounding existing and future residents and building occupants, as well as protect the amenity of the surrounding public realm.

### **83 New Road**

- PA/10/01878** Change of use ground floor and basement from Class A1 retail /  
4.11 wholesale to Class A3 restaurant with ancillary hot food takeaway. **Refused**  
23/12/2010

#### **Reasons:**

1. The proposed Class A3 restaurant would result in an over concentration of similar uses within the local area, and that the cumulative impact and levels of disturbance associated with these uses would have a detrimental impact on local residents. The site is not located in a designated town centre. The proposal is therefore contrary to the requirements of Policies SP01(2c), SP03(2b) and SP10 of the adopted Core Strategy (2010) and Policy RT5 of the Interim Planning Guidance (2007), which seek to prevent the over-concentration of evening and night-time economy uses where they would have a detrimental impact on residential amenity.
2. Insufficient information has been provided for the Council to be able to determine whether the proposed duct riser and flue are acceptable in design terms, as required by Policy SP10(4) of the Core Strategy (2010), saved Policies DEV1 and DEV9 of the Unitary Development Plan (1998) and Policy DEV2 of the Interim Planning Guidance (2007). Furthermore, insufficient information has been provided for the Council to be able to determine whether the proposed duct riser would protect or enhance the character and appearance of the Myrdle Street Conservation Area, as required by Policy SP10(2) of the adopted Core Strategy (2010), saved Policy DEV27 of the Unitary Development Plan (1998), Policy CON2 of the Interim Planning Guidance (2007), Policy 4B.12 of the London Plan (2008) and Planning Policy Statement 5: Planning for the Historic Environment (2010).
3. Insufficient information has been provided to adequately demonstrate that the proposed kitchen extract system would protect neighbouring residential amenity with regard to noise disturbance. As such, the proposal is contrary to the requirements of Policy SP03(2b) and Policy SP10(4) of the adopted Core Strategy (2010), saved Policies DEV2, DEV50 and S7 of the Unitary Development Plan (1998) and Policies DEV1 and DEV10 of the Interim Planning Guidance (2007). These policies require development proposals to protect the amenity of surrounding existing and future residents and building occupants, as well as protect the amenity of the surrounding public realm.

4. The applicant has failed to demonstrate that the proposal includes adequate provision for the storage and collection of waste refuse and recyclables, which is contrary to the requirements of saved Policy DEV55 of the Unitary Development Plan (1998) and Policy DEV15 of the Interim Planning Guidance (2007). These policies require planning applications to be considered in light of the adequacy and ease of access to the development for waste collection and the adequacy of storage space for waste given the frequency of waste collections.

**Officer Comment:**

As noted above, several previous applications for change of use to Use Class A3 have been dealt with by the Council. The majority of these have been refused (PA/13/00823, PA/12/00605, PA/10/02692, PA/10/02327, PA/10/01878). However, The most recent permission (PA/13/01607) has been approved. This is dealt with in further detail under Land Use in part 8 of this report.

## 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:

**Government Planning Policy Guidance/Statements:**

National Planning Policy Framework 2012

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

4.7 - Retail and Town Centre Development

7.15 - Reducing Noise and Enhancing Soundscapes

**Core Strategy Development Plan Document 2025 (adopted September 2010):**

SP01 - Refocusing on Town Centres

SP03 - Creating Healthy and Liveable Neighbourhoods

SP10 - Creating Distinct and Durable Places

**Managing Development Document (Adopted 2013):**

DM1 - Development within Town Centre Hierarchy

DM2 - Local shops

DM15 - Local job creation and investment

DM24 - Place Sensitive Design

DM25 - Amenity

**Supplementary Planning Guidance:**

Myrdle Street Conservation Area Appraisal

Whitechapel Vision SPD 2013

## 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:

6.3 **LBTH Transportation & Highways**

Transportation and Highways have no objection to this proposal.

**LBTH Waste Policy and Development**

Waste storage arrangement is not presented in the plan. Please provide the detail plan.

*Officer comment: The applicant has provided an amended drawing which shows a dedicated area for waste storage which is considered acceptable.*

**LBTH Environmental Health Officer**

All the other data has been supplied and as long as the filtration system complies with BS4142 and the extractor system complies with your criteria, and odour/smoke emissions will be minimised and hence reduce likelihood of any odour complaints from the Pollution team I accept the planning application PA/13/02318.

## 7. LOCAL REPRESENTATION

7.1 A total of 34 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 was advertised in East End Life. 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: 4            Objecting: 4            Supporting: 0  
No of petitions received:    1 objecting containing 21 signatories

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

- The proposal will result in increased levels of air pollution, litter and infestation
- The proposal will result in increased noise disturbance to neighbours
- The proposal will result in an over-concentration of restaurants in the area
- The proposal will adversely impact upon on-street parking provision

## 8. MATERIAL PLANNING CONSIDERATIONS

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

1. The loss of the retail unit
2. The concentration of restaurants in the area
3. The provision of new restaurant floorspace.
4. The suitability of the rear flue
5. Highways Impacts

### Loss of Retail Unit.

#### Policy Considerations

8.2 Consideration has been given to a number of policies which guide development involving the loss of A1 retail uses in certain locations. Policy SP01 (2) of the Core Strategy (2010) seeks to ensure the scale and type of uses within town centres are consistent with the town centre hierarchy and SP02 (Part 5) promotes areas outside and at the edge of town centres as places which support and assist in the creation of sustainable communities. Part (a) of Policy SP02(5) promotes mixed use development at the edge of town centres.

8.3 The site is within the THAA, but outside the Whitechapel Centre Boundary. Policy DM2 of the Managing Development Document (Adopted 2013) seeks to ensure the existing level of local shop provision is maintained and complements the town centre network. In summary, this Policy also goes on to explain how the loss of A1 will only be supported where there is a shop within 300m walking distance, the shop has been vacant for more than 12 months, and there is no viable prospect of retail use.

8.4 It is noted that the retail unit is not currently vacant however the site is in close proximity to other retail shops and that shops within the Whitechapel District Centre are only 50 - 100m away.

- 8.5 On balance given the mixed use nature of the area and the proximity of the unit to other shops and the Whitechapel District Centre it considered that the loss of the A1 retail unit is acceptable, as there is a more than adequate provision of local shops in the area.

#### Introduction of A3 use

- 8.6 Policy SP01.2c of the Core Strategy (2010) seeks to ensure evening and night time economy uses, including restaurants, are not over-concentrated in areas where they will have a detrimental impact on local people.
- 8.7 Policy DM1 (2) of the Managing Development Document (Adopted 2013) explains that within the Tower Hamlets Activity Areas (THAA), a mix of uses will be supported. Policy DM1 (4) states that 'restaurants, public houses and hot food takeaways (class A3, A4 and A5) will be directed to the CAZ, THAA and town centres, provided that: a) They do not result in an over concentration of such use.
- 8.8 It is noted that part b of this policy, which states that '*In all town centres there are at least two non-A3, A4 and A5 units between every new A3, A4 and A5 unit*' is not relevant here as the site is outside of the Town Centre Boundary.
- 8.9 Consideration has also been given to Policy SP03 of the Core Strategy which supports healthy and active lifestyles, through seeking to reduce the over concentration of any use type that distracts from the ability to adopt healthy lifestyles
- 8.10 Whitechapel Vision SPD promotes a mix of cafes, restaurants, bars and leisure activities to support the night-time economy but no specific guidance on land use or concentration.
- 8.11 The key issue here is whether the proposal leads to an over-concentration of A3 uses in the vicinity.

#### Overconcentration in the area.

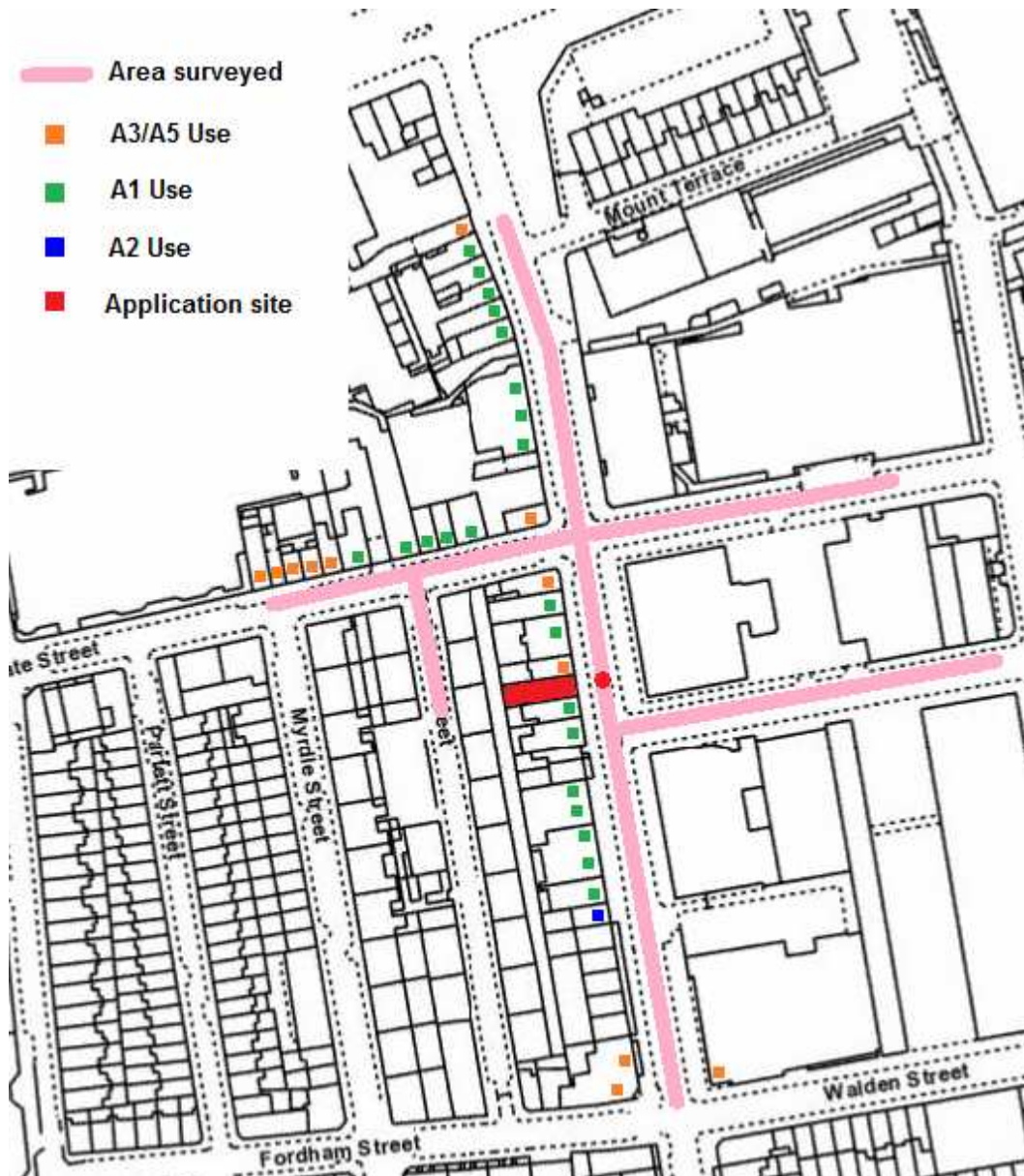
- 8.12 There are other restaurants already trading within the vicinity of the site. These include 131 New Road, 119 New Road, 97 New Road, 95 New Road, 93 New Road, 87 New Road (Needoo), and 49-53 (Sahara Grille) New Road. There is also a large restaurant on Fieldgate Street (Tayabbs).
- 8.13 The Authority is concerned about the proliferation of restaurant uses along New Road, and the adverse impact that this proliferation will have on the amenity of the residential occupiers of the areas - in terms of potential for increased noise and disturbance from patrons coming and going. There is also concern that a mixed balance of uses should be retained in the area. Four letters of objection and one petition has been received from a number of residents close to the premises who have raised concerns about the existing levels of air pollution, litter, and noise disturbance and the increase to this that a new restaurant will create.

#### Recent applications in the area

- 8.14 As can be seen in the planning history section of the report, there has been a number of similar applications in the vicinity of the site over the last few years. The Authority's concern about the proliferation of restaurant uses in this area had resulted in the majority of the applications being refused. However, more recently a planning application at 85 New Road was granted planning permission on 11<sup>th</sup> October 2013

(ref. PA/ PA/13/01607). At the time of this application the officer carried out a survey of the nearby area to assess the concentration of uses within the area.

8.15 This survey looked at the 36 commercial units in a walking distance of approximately 100m along the road from 85 New Road (the application site) as shown on the plan below;



The results of the officer's survey were as follows;

A1 (Retail including sandwich/coffee shops)	23	64%
A2 (Financial and professional)	1	3%
A3/A5 (Restaurants/Takeaways)	12	33%

8.16 This information was presented to Members at committee where it was considered that the results did not show that there was a clear overconcentration in the area especially in the absence of specific guidance as to what might constitute over-concentration.

8.17 This is the first change of use application since the previous approval. Officers do not consider that there has been any substantial change in concentration of uses within the area and therefore in this instance the addition of an A3 unit in this location would be acceptable.

8.18 Given the size of the proposed restaurant it is considered that the number of patrons is not going to have a significant impact on the noise and disturbance of people coming and going to the detriment of the local residents. As a restaurant rather than a takeaway it is considered unlikely to generate litter. There is also no reason why a well-run restaurant should lead to air pollution or infestation.

8.19 On balance it is considered that the proposed restaurant would not result in an over-concentration of this type of use and is in accordance with objectives of Core Strategy policy SP01, which seeks to promote a vibrant mix of uses in the designated Activity Areas. Subject to conditions the restaurant uses is not considered to have adverse impacts on residential occupiers of the area in terms of increased noise & disturbance from patrons coming and going to the restaurants. The proposal is therefore in accordance with the objectives of policies SP01(2c) of the adopted Core Strategy (2010) and policy DM1(4) of the adopted Managing Development Document (2013).

#### Other issues associated with change of use to restaurant.

8.20 The proposal includes a new kitchen and extraction system with a flue. This flue is discreetly placed at the rear of the premises and will not be readily visible from the streetscene. Subject to conditions the proposal would not harm the character and appearance of the Myrdle Street Conservation Area, in accordance with Policy SP10 (2) of the Council's adopted Core Strategy (2010), Policies DM24 and DM27 of the Managing Development Document (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 and historic buildings.

#### Transport and Highways

8.21 The proposal would slightly increase delivery and other vehicle trips to and from the site. However, the proposal is located in an established commercial area; therefore this proposal will not have any major impact on the highways. The applicant could use the loading bay located in front of the proposed development for servicing and LBTH Highways and Transport have raised no objection. Objections have been raised by local residents in regards to increased parking pressure, given the relatively small size of the restaurant is not considered that the change of use would result in increased parking pressure on in the local vicinity.

#### Waste

8.22 The proposal did not originally include any provision of waste which LBTH Waste Policy raised as an objection. Revised details were subsequently submitted by the applicant that show an area of storage for waste on the grounds floor level which is considered acceptable. It is therefore considered that the proposal includes adequate facilities for the storage of waste and recyclables, in accordance with Policy DM14 of the Managing Development Document (2013), and Policy 5.17 of the London Plan

(2011). These policies seek to ensure that developments include adequate provisions for the storage of waste and recyclables within the development given the frequency of collections.

## **9.0 Other Planning Issues**

9.1 The Equality Act 2010 provides protection from discrimination in respect of certain protected characteristics, namely: age, disability, gender reassignment, pregnancy and maternity, race, religion or beliefs 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.

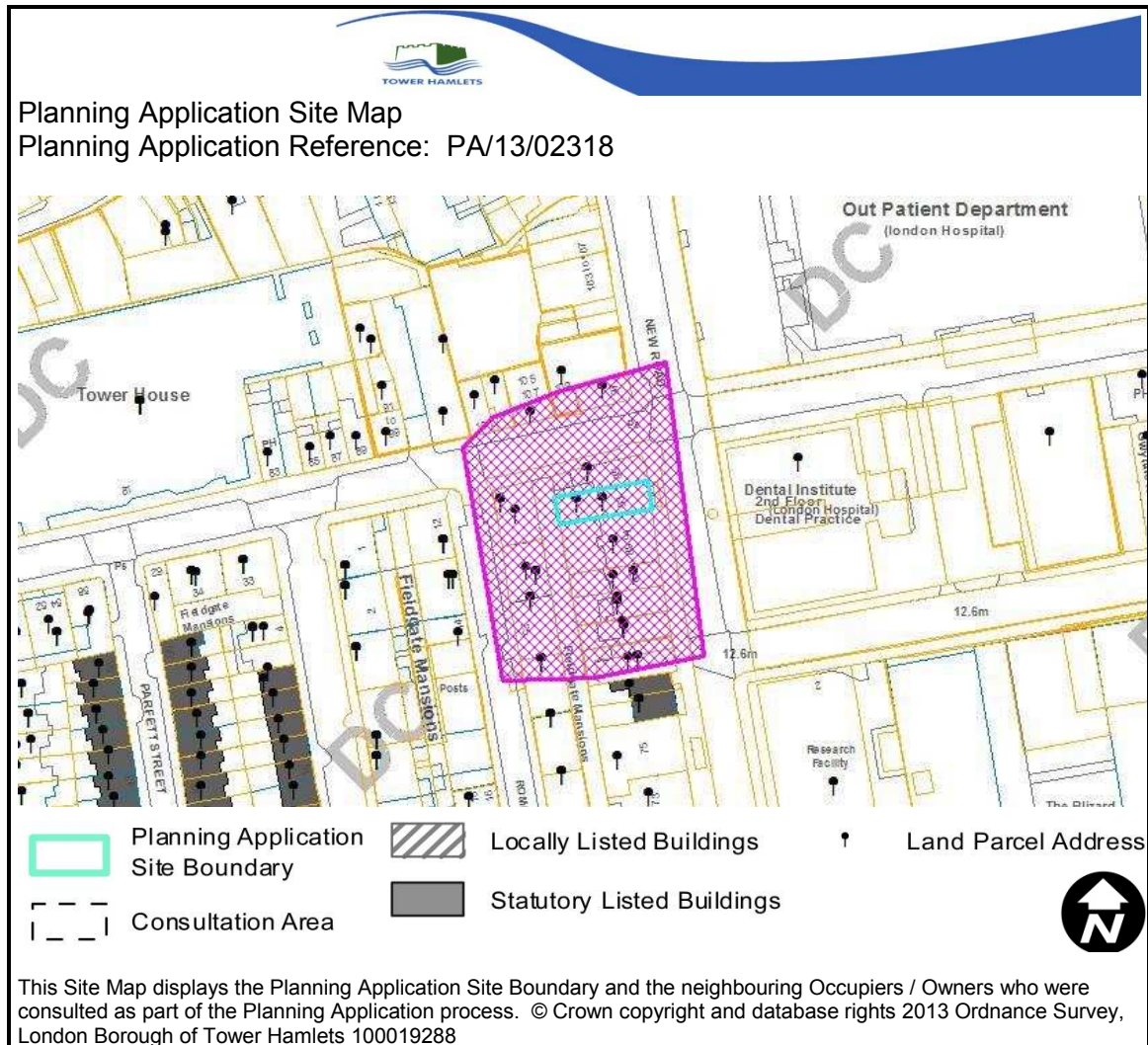
It is not considered that this application raises any equalities issues.

## **10.0 Conclusions**

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



## 11.0 Site Map



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# Agenda Item 6

<b>Committee:</b> Development	<b>Date:</b> 9 <sup>th</sup> April 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item No:</b> 6
<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. HEAD OF 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 4.

#### **5. RECOMMENDATION**

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

# Agenda Item 6.1

<b>Committee:</b> Development	<b>Date:</b> 09 April 2014	<b>Classification:</b> Unrestricted	<b>Agenda Item Number:</b>
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<b>Report of:</b> Director of Development and Renewal	<b>Title:</b> Town Planning Application
<b>Case Officer:</b> Robert Lancaster	<b>Ref No:</b> PA/13/02974
	<b>Ward:</b> Millwall

## 1. APPLICATION DETAILS

<b>Location:</b>	WoodWharf, Preston's Road E14
<b>Existing Use:</b>	Mixture Light Industrial, Industrial and Warehousing. The site now includes temporary landscaped areas and a temporary pedestrian bridge across part of the West India and Millwall Docks.
<b>Proposal:</b>	Temporary change of use to Class D1 (non-residential institution) and D2 (assembly and leisure), up to 2,400 sq.m of Class A3 (restaurants and cafes) and A4 (drinking establishments) floor space(including food markets) and sui generis (theatre, outdoor exhibition/sporting uses (falling outside of Class D1) and ancillary uses to comprise no more than 14,999 sq.m of enclosed floor space; erection of a temporary bridge; erection of temporary structures; works of hard and soft landscaping, parking and other works incidental to the application for a limited period until 28th February 2016.
<b>Drawing Nos:</b>	<b>PP SK-01 Rev B – Plot Outlines</b> <b>PP SK-02 Rev B – Emergency Vehicle Access</b> <b>PP SK-03 Rev B – Step Free Access Routes</b> <b>PP SK-04 Rev B – Key Pedestrian Arrival Points</b> <b>PP SK-05 Rev B – Continuous Pedestrian Routes</b> <b>PP SK-06 Rev B – Dock Edge Pedestrian Route</b> <b>PP SK-07 Rev B – Service Vehicle Access</b> <b>PP SK-08 Rev B – Plot A Landscaping</b> <b>PP SK-09 Rev B – Plot B Indicative Landscaping</b>  Temporary Pontoon Bridge (Drawing DS0411-01-01) Sheet 1 Temporary Pontoon Bridge (Drawing DS0411-01-01) Sheet 5 Temporary Pontoon Bridge (Drawing DS0411-01-01) Sheet 6 Temporary Pontoon Bridge (Drawing DS0411-01-01) Sheet 7
<b>Documents:</b>	<b>WoodWharf: Temporary Use Maximum Potential Use of Site (November 2013)</b>

**WoodWharf Temporary Use Parameter Plan Schedule  
(November 2013)**

**Design and Access Statement dated November 2013**

**WoodWharf (Temporary Use) Impact Statement.**

**Supplementary information:**

- **WoodWharf Flood Risk Assessment: Addendum 1 (prepared by Arup dated 7 June 2011);**
- **WoodWharf Flood Risk Assessment: Addendum 2 – Detailed Drainage Strategy (prepared by Arup dated 28 June 2011);**
- **Schedule of events 2013;**
- **Acoustic Planning Report (Sandy Brown, dated 13 November 2012);**
- **Response to Transport Comments (Steer Davies Gleave, dated 11 March); and.**
- **Ecology Information from Phase 1 Habitat Survey undertaken on 13 September 2012 (Ramboll, dated 13 November 2012).**

**WoodWharf – Temporary Use Management Plan dated November 2013.**

<b>Applicant:</b>	CWG (Wood Wharf Two) Limited
<b>Ownership:</b>	Various. Refer to Application Form.
<b>Historic Building:</b>	Dock Wall Grade I Listed
<b>Conservation Area:</b>	Adjacent to Coldharbour Conservation Area

## **2. EXECUTIVE SUMMARY**

The use of the land on a short term basis to provide event, exhibition and corporate hospitality type uses is an efficient use of otherwise vacant land, improving the cultural offer in the North Isle of Dogs which complements CanaryWharf's role as a global economic centre.

The use would be for a limited period which would not prejudice the Local Plan's aspirations for a comprehensive, mixed-use redevelopment of the site.

The proposed marquees, pontoon bridge and associated development achieve a very good standard of design in terms of site layout, scale and use of materials. The scheme would enable the continued productive use of the site and maintain its enhanced appearance and would contribute to the creation of an attractive and vibrant waterside environment.

The site is located within an area with good public transport links and maintains the pedestrian routes and linkages in the area. Therefore, the site's transport links in combination with the proposed management arrangements ensure that the development would not have an adverse impact on the local highway network or transport infrastructure.

The proposed temporary bridge and structures would safeguard the listed dock wall and preserve the character and appearance of the adjoining Cross harbour Conservation Area.

The proposed hours of operation and restrictions on noise levels ensure that the proposed use of the land would not have any significant adverse impacts on the amenity of the occupiers of nearby buildings.

### **3. RECOMMENDATION**

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

#### **3.2 Conditions**

1. Two year temporary permission up to 28<sup>th</sup> February 2016. Use discontinued and structures removed at end of period.
2. Development in accordance with and adherence to restrictions specified within approved parameter plans and parameter plan schedules.
3. No use of land to take place outside of approved hours.
4. No construction/deconstruction or deliveries associated with construction, to take place outside of approved hours for amenity reasons. No construction deliveries at peak times of network congestion for highway safety reasons.
5. No Servicing to take place outside of approved hours for amenity reasons, or at peak times of network congestion for highway safety reasons.
6. Uses operated in accordance with restrictions given in approved Management Plan dated November 2013
7. Use Operated in accordance with measures specified in approved:-  
Staff Transport Management Strategy,  
Visitor Transport Management Strategy,  
Delivery Servicing and Site Construction Strategy, as detailed in  
Transport Statement dated November 2013
8. Compliance with approved Drainage Strategy and mitigation measures.
9. Plant Noise controlled in accordance with approved Acoustic Planning Report.
10. Details of proposed landscaping on Plot B prior to first use.
11. Temporary Bridge to be open for use by the public between the hours of 8am-8pm during summer months (June-September) and between 10am-6pm (or during daylight hours, whichever is greater) during other times of the year and at all times prior to, during and after events on the site take place.
12. Pedestrian through-route shown on drawing PP SK-05 Rev B to be retained for duration of the permission.
13. Lighting of marquees, pedestrian routes, pontoon bridge and junction areas not to exceed specified limits.
14. Removal of Part 4 (Classes A and B) Permitted Development rights for other temporary events on site during duration of consent.

15. Details to be submitted for approval (following consultation with London Underground) of all foundations, basement and any other structures that are more than 1m below existing ground level.
16. Liaison with LBTH If any suspected contamination or unusual or odorous ground conditions are encountered during any ground works.
17. Monitoring of total visitor numbers, total staff numbers/origin of travel, daily numbers of service vehicles/arrival times and origins and incident monitoring (including any queuing at entrance and exist points) for at least one major event every 6 month period.
18. Development not to impede access to Crossrail works site.
19. Temporary pontoon bridge to be removed upon notice of use of Bellmouth Passage from Crossrail Ltd.
20. Any other condition considered necessary by the Director of Development and Renewal.

### 3.3 Informative

1. Advise Applicant that grant of Planning Permission does not affect LBTH consideration of individual licensing applications/obligations to prevent statutory noise nuisance
2. No Highway Obstructions during construction
3. Thames Water Advice regarding grease traps
4. Environment Agency Advice
5. The applicant/developer should refer to the current Canal and River Trust 'Code of Practice for Works affecting the Canal and River Trust' to ensure that any necessary consents are obtained.

### 3.4 S106 Obligations

1. Commitment to promote use of Skillsmatch for on-site employment
2. Commitment to promote use of East London Business Place and local suppliers.
3. Commitment to subscribe to London Eastside promotional services
4. Commitment to encourage and facilitate community and school use.
5. Commitment to encourage and facilitate community and public activities on the site.
6. Any other obligation considered necessary by the Director of Development and Renewal.

## 4. PROPOSAL AND LOCATION DETAILS

### Background

- 4.1 In August 2011, the Council granted a temporary permission until the end of December 2012 (approximately 16 months) to use this site for a range of uses. This was subject to a number



of conditions further controlling hours of use and other operational aspect of the proposals and removing permitted development rights. The permission was also subject to planning obligations securing commitments to promote use of Skillsmatch for on-site employment, the use of East London Business Place and local suppliers, to subscribe to London Eastside promotional services, encourage and facilitate community and school use and encourage and facilitate community and public activities on the site.

4.2 Following this permission the western part of the site (Plot A) was landscaped, a temporary pedestrian bridge installed and the site used for a number of events as follows:

- 'Pop-up cinema - 3 and 4 September 2011 (approx. 4,000 people);
- Private music video shoot – 14 October 2011;
- Lunch markets – 31 July, 7 August and 28 August 2012 (between approx. 5,500 and 6,500 people);
- Reebok Boot Camp military-style fitness classes - 8 separate lunchtime and early evening sessions during August 2012 (approx. 20 people per session);
- Private product launch event (8 August 2012);
- 'Dinner in the Sky' private dining event – 17 August 2012 (approx. 50 people); and
- Olympic screens showing Olympic events – throughout the period 30 July to 10 September 2012 (average attendance of approx. 2,800).

4.3 The 16 months period (which covered the Olympics and Paralympics) expired at the end of December 2012.

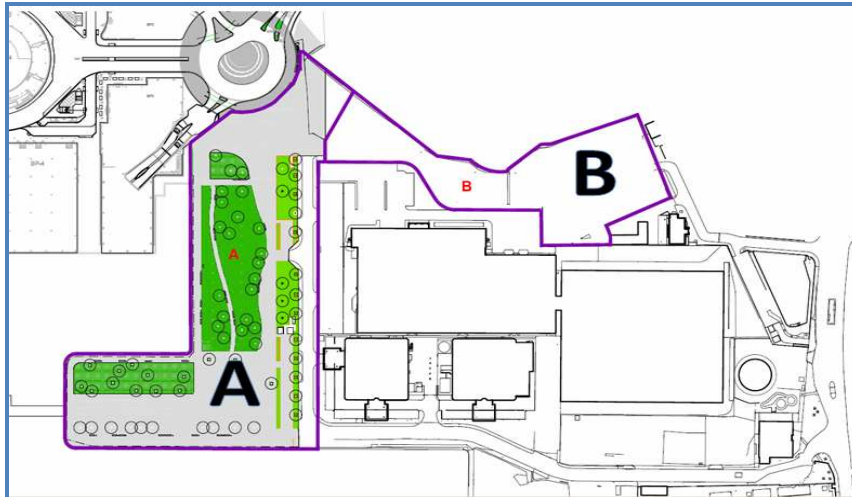
4.4 The applicant then reapplied and in February 2013 was granted by Tower Hamlets' Development Committee another temporary permission for one year (up to 28<sup>th</sup> February 2014), and the site was then used for a number of events outlined in the submitted document 'Wood Wharf Events 2013'. The applicant is now seeking permission to retain the pedestrian bridge and landscaping and continue the same range of temporary uses for approximately a 2 year period whilst it progresses long-term proposals for the site.

4.5 The proposed uses and management of the site are identical to that permitted in February 2013.

### **The Proposal**

4.5 The proposals are the same as the previous temporary permission and would permit use of the site until 28<sup>th</sup> February 2016. A flexible use is sought to erect marquee type structures on the land, as and when required. At other times the site would not be used and the marquee structures would be removed. As before, the applicant seeks a permission that would set a maximum amount of floorspace and would specify the size of marquee that could be installed. The Application also sets out maximum noise levels, hours of operation and a management plan for the design of structures and the operation of the site to control potential amenity impacts.

4.6 The application site area is the same as the previous permission and relates to approximately 3.04ha of land. As before, the site proposes the division of the site into 2 plots (A and B), Plot A is to be used for the lifetime of the consent. Plot B to only be available for summer periods.



View of site from Pan Peninsula showing existing temporary bridge and landscaping

4.7 Included at Appendix 1 (Table 1) are proposed parameters that would establish the following for Plots A and B:

- Maximum useable enclosed floorspace;
- Maximum height of temporary structures;
- Maximum site coverage;
- Minimum open space;
- Duration of use;
- Permitted uses;
- Indoor/outdoor uses;
- Hours of operation;
- Maximum car and coach parking; and,
- Minimum cycle parking spaces.

4.8 Included at Appendix 1 (Table 2) is the proposed maximum amount of use and key restrictions that would apply to each plot on the site.

4.9 The Management Plan (November 2013) sets out the management principles and

establishes requirements for prospective tenants. The key requirements of this Plan are set out in the following paragraphs.

#### 4.10 Design Code

- Provision of Marquees - All marquees are subject to the prior approval of Canary Wharf limited (CWL). No works are permitted to the dock edges and marquees are required to be set back from the dock wall edge by at least 1m;
- Marquee Heights - Maximum (marquee) height of 12.95m;
- Marquee Numbers - The scale and number of marquees on a plot must not exceed the parameters set out within the Parameter Plan Schedule (November 2013) (see Appendix 1 Table 1);
- Outdoor Sporting Events - Outdoor sporting events may be held which will require the provision of temporary tennis courts, golf course and a five-a-side football pitch on Plot A & Plot B (the golf course is a proposed additional event)
- Lighting Strategy - Existing street lighting to be retained and specific maximum lighting levels for different areas of the site
- Signage/wayfinding Strategy -Signage strategy to be implemented and maintained which highlights both permanent and temporary routes for pedestrians and vehicles;
- Advertising/Branding Strategy for Plots - External advertising will not be permitted where this exceeds 3m x3m and illuminated signage is not permitted; and,
- Ventilation for preparation of hot food - Structures to be ventilated based on use and temporary/event requirements will be met.

#### 4.11 Operational Management requirements are identified for the following:

- Servicing and refuse;
- Recycling;
- Car parking;
- Coach parking;
- Taxi drop-off;
- The temporary footbridge will be open for use by the public between the hours of 08.00 and 20.00 during summer months (June-September) and between 10.00 and 18.00 (or during daylight hours, whichever is greater) during other times of the year, and at all times for an hour prior to, and for an hour after events, and at all times during events on the site taking place.
- Noise – specific requirements for music noise covered by the Noise Council's Code of Practice on Environmental Noise Control and noise from other events;
- Tenant plant;
- Access to the site;
- Uses of the site – this sets out a range of typical events that may be held on the site;
- Live music;
- Security;
- Maintenance; and,
- Sustainability.
- Construction hours.

#### 4.12 The application also seeks permission for associated development to facilitate the use of the land for the above purposes. This comprises:-

- The retention of the temporary pontoon bridge over West India Dock to provide access to the site from Montgomery Street;

- A minimum of 2 parking bays for disabled visitors on Plots A and B and a maximum of 8 staff car parking spaces on Plot A and 4 on Plot B. A maximum of 4 coach parking spaces on either of the two plots. A taxi rank would also be provided. The application does not propose any general on-site private car-parking;
- 40 Sheffield style stands (80 cycle spaces) on plot A and 20 stands (40 cycle spaces) on plot B; and
- Works of hard and soft landscaping.

4.13 The potential maximum overall capacity of the site would be approximately 14,000 visitors. In addition to this the applicant estimates that at times of full use approximately 1,750 staff could be employed at the site in security, catering, cleaning, stewarding and administration roles.

### **Site and Surroundings**

4.14 The Application site forms part of the area of land known as Wood Wharf. The application site occupies an area of 3.04ha. Wood Wharf is located to the east of the Canary Wharf complex. The north of the site is bounded by the Blackwall Basin and South Dock forms the southern boundary.

4.15 Preston's Road provides vehicle and pedestrian access to the site. Pedestrian access to the site is also possible from a steep flight of stairs leading down from Cartier Circle and from a water-level walkway running around the base of 20 Churchill Place. Cycle access is limited, being confined to Preston's Road only.

4.16 The application site currently accommodates the temporary pedestrian bridge and landscaped areas permitted by the current temporary permission. The wider Wood Wharf site remains in use as office accommodation and a sports centre.

4.17 The nearest residential properties to the site are located to the east of the site at Lovegrove Walk and Lancaster Drive. The properties at Lovegrove Walk almost abut the boundary of the proposed Plot B. There are also boat moorings and dwellings located over 100m to the north on the opposite side of Blackwall Basin. There are also properties over 100m away on the opposite side of South Dock.

### **Planning History**

4.18 The following planning decisions are relevant to the application:

PA/08/1215 Hybrid application for comprehensive mixed-use redevelopment of Wood Wharf comprising:

1) Outline Application (all matters reserved, save for access & layout)

- Demolition of dwellings at Lovegrove Walk;
- Commercial floorspace (B1), up to 1668 residential units (C3), and hotel (C1) contained in fourteen buildings;
- Retail (A1), financial services (A2), restaurants & cafes (A3), drinking establishments (A4) and takeaway establishments (A5);
- Leisure & community uses (D1 & D2);
- Associated infrastructure, including the creation of structures in Blackwall Basin and South Dock;
- Principles of landscaping and public realm;
- Means of access;

- Bridge links;
- Car, motorcycle and bicycle parking spaces, servicing; and
- Electricity substation.

## 2) Full Application

- Creation of canal and other engineering infrastructure.

Approved. 18<sup>th</sup> May 2009.

- PA/11/02174 Hybrid application to replace permission PA/08/01215 (Approved 29 March 2012)
- PA/09/00866 Details of scale, appearance and landscaping of building W01 pursuant to condition C1. (Approved 8<sup>th</sup> July 2009)
- PA/11/01000 Temporary change of use of Class D1 (non-residential institution) and D2 (assembly and leisure), up to 2,400sqm of Class A3 (restaurants and cafes) and A4 (drinking establishments) floorspace and sui generis (theatre, outdoor exhibition uses [falling outside of Class D1]) and ancillary uses to comprise no more than 14,999sqm of enclosed floorspace; erection of temporary bridge; erection of temporary structures; works of hard and soft landscaping, parking and other works incidental to the application for a period of 2 years. (Approved 18<sup>th</sup> August for a limited period up to 31<sup>st</sup> December 2012).
- PA/12/00430 In February 2012, the applicant applied to vary some of the hours of use established by Condition 3 of permission PA/11/01000 to allow events to take place up to 24.00 during the Olympic period. The Development Committee resolved to approve this variation, but the application was subsequently withdrawn in September 2012.
- PA/12/02584 In February 2013 permission was granted, following a Development Committee resolution to grant, for the temporary change of use of the land to Class D1 (non-residential institution) and D2 (assembly and leisure), up to 2,400 sq.m of Class A3 (restaurants and cafes) and A4 (drinking establishments) floor space and sui generis (theatre, outdoor exhibition/sporting uses (falling outside of Class D1) and ancillary uses to comprise no more than 14,999 sq.m of enclosed floor space; erection of a temporary bridge; erection of temporary structures; works of hard and soft landscaping, parking and other works incidental to the application.
- PA/13/02966; 2967 & 2969 An application for outline permission (along with an associated listed building consent application and an application for 'enabling works') has been submitted for the comprehensive redevelopment of the site.

## 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 some of the main policies relevant to the application:

### Core Strategy 2010

Policies and Principles	S01	Delivering Tower Hamlets Regional Role
	S02	Maximising the benefits of the Olympic Legacy
	S03	Achieving wide sustainability
	SP01	Town Centre Hierarchy
	SP10	Healthy and Liveable Neighbourhoods
	SP03(2)	Addressing the Impact of Noise and Air Pollution
	S012	High Quality and Well Connected Natural Environment
	S013	Reduce risk and Impact of Flooding
	SP04	Delivering a Network of Open Spaces
	SO14	Plan and Manage Waste
	SP05	Implement Waste Hierarchy
	S015	Support thriving and accessible global economic centres
	SP06	Seek to Deliver Investment and Job Creation
	S016	Support Business Growth
	S017	Improve education skills and training
	S020	Deliver safe and attractive streets
	S021	Creating safe attractive streets and places
	SP09	Implementing Street Hierarchy
	S022	Creating Distinct and Durable Places
	SP10	Implementing Distinct and Durable Places
	SP12	Delivering Place making
	SP13	Planning Obligations

### Managing development Document 2013

Policies	DM1	Development within the town centre hierarchy
	DM10	Delivering open space
	DM11	Living buildings and biodiversity
	DM12	Water spaces
	DM13	Sustainable drainage
	DM15	Local job creation and investment
	DM20	Supporting a sustainable transport network
	DM22	Parking
	DM23	Streets and public realm
	DM24	Place-sensitive design
	DM25	Amenity
	DM27	Heritage and the historic environment
	Allocation 16 – Wood Wharf	

### Planning Guidance

Wood Wharf Masterplan SPG 2003  
 Planning Obligations SPD 2012

### London Plan 2011 (as amended)

Policies	1.1	Delivering the strategic objectives for London
	2.13	Opportunity Areas and Intensification Areas
	2.15	Town centres
	3.1	Ensuring equal life chances
	4.1	Developing London's economy
	4.5	London's visitor infrastructure
	4.6	Support for an enhancement of arts, culture, sport and entertainment provision

4.7	Retail and town centre development
4.12	Opportunities for all
5.10	Urban greening
5.12	Flood risk management
5.13	Sustainable drainage
6.1	Strategic approach
6.3	Assessing effects of development on transport capacity
6.9	Cycling
6.10	Walking
6.12	Road network capacity
6.13	Parking
7.2	An inclusive environment
7.8	Heritage assets and archaeology
7.15	Reducing noise and enhancing soundscapes
7.19	Biodiversity and access to nature
7.25	Increasing the use of the Blue Ribbon network for passengers
7.27	Blue Ribbon Network: Supporting infrastructure and recreational use.

## 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:

### **LBTH Environmental Health – Noise**

6.3 No objections subject to the proposed management plan being adhered to and that event should not continue beyond 11pm. Environmental Health also confirm that there has been no noise complaints in the period of the last temporary uses permission.

### **LBTH Environmental Health - Contamination**

6.4 No objections raised.

### **LBTH Ecology**

6.5 Part of the application site (Plot B) is within a Site of Borough Grade I Importance for Nature Conservation. Clearly, with the extant planning permission for Wood Wharf, this area of habitat is not likely to survive in the long term, but its loss will be mitigated in the permanent development through biodiverse roofs and other features to provide habitats. The proposed landscaping of this area could provide some opportunity to safeguard/incorporate some biodiverse planting and, as before, the loss of this area is considered acceptable subject to reserving details of landscaping by way of condition.

### **LBTH Highways**

6.6 Highways raise concern regarding some of the assumptions to assess traffic generation and consider that the sites chosen for comparison are unsuitable and do not lend themselves to provide an adequate assessment of this proposal. Highways acknowledge these are the same concerns as previous applications which have been approved by Development Committee.

### **LBTH Waste Management**

6.7 No objections.

### **Canal and River Trust**

6.8 The Canal & River Trust has no objections to the proposed development, which continues the temporary uses that have occupied this site for some time.

We are very supportive of the provision and use of the moorings on this site, that help animate the waterspace, and of the open public access to the dock edges.

### **English Heritage**

6.9 This application should be determined in accordance with national and local policy guidance and on the basis of LBTH's specialist conservation advice.

### **English Heritage Archaeology**

6.10 The current proposals are unlikely to have an effect on any significant heritage assets of archaeological interest. There is no need for an archaeological assessment.

### **Environment Agency**

6.11 The Environment Agency is satisfied with the drainage proposals and confirms that mitigation measure(s) as detailed in the submitted Flood Risk Assessment and Addendum 1 and 2 should be secured by condition.

### **Transport for London**

6.12 TfL have no objections subject to the following condition:

- Development shall not commence until detailed design and method statements, for all the foundations, basement and ground floor structures or for any other structures that are more than 1m below ground level, including piling (temporary and permanent) have been submitted to and approved in writing by the local planning authority in consultation with London Underground.

### **Crossrail Limited**

6.13 Crossrail raise no objections subject to the following conditions:

- 1 Development not to impede access to Crossrail works site.
- 2 Where Crossrail Ltd need access to Bellmouth Passage, the temporary pontoon bridge shall be removed within 24 hours upon Crossrail serving Notice on the applicant.

### **Port of London Authority**

6.14 The PLA raises no objection to the proposed development. However, it is 'disappointed' that the applicant has not considered river bus as a mode when forecasting how visitors will access the site.

## **7. LOCAL REPRESENTATION**

7.1 A total of 520 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 in response to notification and publicity of the application were as follows:

No of individual responses: 5            Objecting: 5            Supporting: 0

- 7.2 Two of the representations object on the basis of noise and disturbance; one objects to the additional pressure on road infrastructure; one objects to the effects of competition on a local convenience store; one representation states that the proposal would not benefit surrounding residents or the local community; and another relates to the current application for the comprehensive redevelopment of the site rather than this application.

## **8 MATERIAL PLANNING CONSIDERATIONS**

- 8.1 The main issues that Members need to consider are:-

- Land Use
- Access, Highways and Servicing
- Design
- Heritage Assets
- Amenity
- Flood Risk
- Ecology and biodiversity
- Employment Opportunities and Community Benefits

### **Land Use**

- 8.2 London Plan Policy 2.13 (Opportunity Areas and Intensification Areas) identifies the Isle of Dogs as an Opportunity Area for regeneration and recognises the importance of the Canary Wharf as a focus for commercial activity. London Plan Annex 1 recognises that the northern part of the Isle of Dogs is an Opportunity Area that is at the heart of London's World City offer.
- 8.3 The Core Strategy Vision for Canary Wharf states that the area will retain and enhance its global role as a competitive financial district. A priority for the area is to enable mixed use redevelopment of Wood Wharf. The Core Strategy designates Canary Wharf as a Major Centre. The Development Management DPD (Post EiP version) allocates the Wood Wharf site (Allocation 16) for a comprehensive mixed-use development opportunity required to provide a strategic housing development, an Idea Store, a health facility and a district heating facility. The development will also include a substantial amount of commercial floorspace and other compatible uses.
- 8.4 The Council has also produced the Wood Wharf Masterplan (December 2003) and the Isle Of Dogs Area Action Plan (2007) which further develop planning policy for the area.
- 8.5 Core Strategic Objective S015 seeks to support the thriving and accessible global economic centre at Canary Wharf as it provides benefit to regional and local economies. Policy SP06 seeks to maximise the delivery of investment and job creation in the Borough and recognises the roles that Canary Wharf has in delivering job growth across the region and sub-region.
- 8.6 Historically the Wood Wharf site has been used for a variety of light industrial, general industrial and warehousing uses. The level of activity on the site has declined significantly. The area of Wood Wharf included within this application site has been cleared of all buildings

and has been temporarily landscaped.

- 8.7 The application seeks permission for a temporary change of use of the land. Permission would be given to use the site for uses falling within D1 (Non- residential Institutions), D2 (Assembly and Leisure) and as a theatre and for outdoor exhibitions. Permission would also be given for A3 (Café and Restaurant) and A4 (Drinking Establishments) uses on each plot – except for D2 use. The proposed Management Plan would allow sports events but not other Assembly and Leisure uses (such as a cinema) on Plot B.
- 8.8 The Applicant has stated the site would be used for a range of uses including exhibitions, corporate hospitality, sporting and cultural events.
- 8.9 The provision of space for corporate hospitality, exhibition and events plays an important role in supporting the role of Canary Wharf as a centre for economic activity. There is limited space within Canary Wharf to provide these types of uses.
- 8.10 The application site benefits from very good public transport links and is adjacent to Canary Wharf, a Major Town Centre where policy seeks to maximise economic activity. The application proposal is considered to be a good short-term use of land pending its comprehensive redevelopment as it would support the function of Canary Wharf as a business centre.
- 8.11 The Canal River Trust supports the active use of the otherwise vacant site. The proposed further period of use would accord with the requirements of Core Strategic Objective S015 which seek to support Canary Wharf as a global economic centre and policy SP06 which seeks to maximise the delivery of investment and job creation in the Borough.
- 8.12 As before, it is recommended that a condition be attached to any permission removing the permitted development rights (Part 4, Classes A and B of the General Permitted Development Order) relating to temporary structures and uses.

## **Access, Highways and Servicing**

### Accessibility and Movement

- 8.13 Core Strategy Policy S020 seeks to deliver a safe, attractive, accessible and well-designed network of streets and spaces. Policies DM20 and DM23 of the Development Management Document require developments to be integrated with the transport network, be well-connected with the surrounding area and create safe and attractive streets. Policy SO14 seeks to plan and manage the Borough's waste efficiently. Policy SP05 seeks to implement the Borough's Waste Hierarchy.
- 8.14 The site currently has a PTAL rating of 4 (which is categorised as 'Good'). The Transport Statement estimates that a maximum of 14,000 people could attend events on the site. An approximate total of 1,750 staff could be employed on site at any one time (this would include security, catering, cleaning, stewarding and administration).
- 8.15 Based on what officers consider to be reasonable assumptions of maximum number of visitors and staff, modal split and trip generation, the Transport Statement demonstrates that the likely impacts on public transport loadings (Jubilee Line, DLR and buses) would be minimal. It also demonstrates that the pontoon bridge and other proposed pedestrian routes are sized appropriately to cater for expected demand. In response to comments made by the Port of London Authority, the applicant has submitted supplementary transport information that predicts that approx. 0.9% of people accessing the site would be likely to use the river bus to travel to and from an event. This equates to a maximum net increase of 34

passengers by Riverbus generated by a typical event in the peak arrival hour. This is a relatively small number of people and would have a negligible impact on the Transport Assessment. The proposed Management Plan requires the applicant to promote sustainable travel, including cycling and the use of the Riverbus.

- 8.16 TfL has not raised concerns in relation to public transport capacity as a reason to limit the number of events and officers are not aware of any significant transport problems associated with the temporary uses and events that have taken place to date. Given this, officers do not consider there is a transport case for seeking to limit the number of events.
- 8.17 The existing pontoon bridge provides convenient and step-free pedestrian access to the site from Montgomery Street. Whilst the geometry of the bridge (with right-angle bends) makes it inconvenient for a cyclist to navigate, particularly when pedestrians are also using it, it is possible for cyclists to dismount and walk their bike over. Alternatively, cyclists would be able to park their bike either on site at one of the proposed spaces or at one of the existing bike stands on Montgomery Street. Pedestrian access would also be possible from the existing staircase leading down from Cartier Circle and there is an existing water-level step free path running around the base of the 20 Churchill Place to the site. This and the existing footways on the site that run alongside roads would provide a continuous pedestrian route from Preston's Road to the Canary Wharf Estate. The site layout would also include the provision of a Dock Edge Pedestrian Route around the majority of the dock edge.
- 8.18 The temporary footbridge will be open for use by the public between the hours of 08.00 and 20.00 during summer months (June-September) and between 10.00 and 18.00 (or during daylight hours, whichever is greater) during other times of the year, and at all times for an hour prior to, and for an hour after events, and at all times during events on the site taking place.
- 8.19 The applicant has stated that for reasons of safety and security, it is not prepared to allow public access across Plot B when events are not being held on the plot or to provide all year round access across this plot. Officers consider that this is reasonable, particularly as a continuous pedestrian access route (albeit with steps) would be provided along the Wood Wharf Estate road up to Cartier Circle.
- 8.20 Highways has asked that a way-finding strategy be developed for the site as a whole and for individual events where practical. The Management Plan commits the applicant to implement a signage strategy.

#### Car, Cycle and Coach Parking

- 8.21 The application does not propose any significant on-site private car-parking. Car parking would be limited to a maximum of 8 staff and a minimum of 2 disabled wheelchair parking bays on Plot A and a maximum of 4 staff and a minimum of 2 disabled wheelchair parking bays on Plot B. The proposed disabled parking bays are a minimum provision and the Management Plan ensures that disabled people will be able to book a parking space at the time of buying a ticket to an event on a first come first served basis.
- 8.22 The proposed Parameter Plan Schedule allows for a maximum of four coach parking spaces on the site and the Indicative Servicing and Parking Locations plan identifies an acceptable indicative location.
- 8.23 40 Sheffield style stands (80 cycle spaces) are proposed on plot A and 20 stands (40 cycle spaces) are proposed on plot B. These would serve both visitors and staff and are proposed to be located in appropriate parts of the site. This level of provision generally accords with

the standards in Policy DM21 of the Local Plan.

#### Taxi Provision

- 8.24 The Transport Statement predicts that taxis generated by maximum site use are likely to be in the order of 40 two-way movements per hour at peak times, with a maximum arrival frequency of one every 96 seconds. Accordingly, a drop-off and pick-up area for up to 6 taxis is also proposed near the main eastern entrance to Plot A. Officers consider this to be acceptable.

#### Servicing and Deliveries

- 8.25 The Transport Statement also considers the likely construction and servicing requirements of the development. It is estimated that the construction of marquees would generate a maximum of 8 lorry deliveries per day during the low season and 12 lorry deliveries a day during the high season. During periods of operation, the servicing demands for the site are likely to equate to the arrival of a maximum of 49 trips a day during the low season and up to 53 trips during the high season. These vehicles would access the site via the existing turn off from Preston's Road. The use of this access for construction and service traffic and the proposed volumes of traffic are considered to be acceptable.
- 8.26 Conditions allow for deliveries and servicing to take place either side of the morning peak period on Mondays to Fridays (i.e. the permitted times would be between 07.00 and 08.00 and from 09.00 to 16.00) and on Saturday evening (19.00 to 20.00) and on Sunday mornings between 10.00 and 13.00, to enable a greater variety of community based events to be able to be held.

#### Monitoring

- 8.27 As before for the previous permission, it is recommended that monitoring for at least one major event every 6 month period takes place and the results shared with LBTH to further understand the implications of the events on traffic.

#### **Design**

- 8.28 In broad terms, Core Strategy Policy SP10 seeks to promote the importance of good design. Planning policies place particular emphasis on the importance of ensuring development has proper regard to adjacent waterways.
- 8.29 The application seeks permission for the retention of the existing temporary landscaping and pontoon bridge and the continued erection of temporary structures (marquees) to facilitate the use of the site for events. The existing temporary landscaping on Plot A and pontoon bridge and associated development achieve a very good standard of design in terms of site layout, scale and use of materials. As with the initial permission, the proposed permission would allow marquees to be erected for the full duration of the proposed two year period. However, in practice the applicant has stated that the structures are only likely to be erected on a short term basis as and when they are required and this is what has happened over the previous twelve month period.
- 8.30 The site is unusual in that it is large, cleared of previous buildings and (for the most part) relatively distant from neighbouring properties. In this context, there is room for a greater degree of flexibility in terms of site layout, scale and appearance of development than might otherwise be the case. The nature of the proposed temporary event uses is such that a degree of flexibility in terms of site design is necessary. The Management Plan limits height of structures to 12.95m. This equates to a 4-storey residential building and temporary

structures of this size are considered acceptable on all parts of the site.

- 8.31 The proposed degree of certainty about the scale and appearance of the structures that would be installed on the site is considered acceptable and the parameter plans also clearly demarcate the areas in which the structures could be installed and the extent of the plot coverage.
- 8.32 The Jubilee Line running tunnels are under part of Plot A and TfL has requested that detail of all development below ground level. Accordingly, it is recommended that a condition is attached to any permission relating to development in Plot A that is greater than 1m below ground level (hence allowing for pegs and other shallow structures associated with marquees).
- 8.33 In overall terms the proposal will deliver a significant improvement in the current appearance and general condition of the site. The scheme would create a vibrant and attractive place which makes good use of the waterside location. The scheme will maintain pedestrian access through the site and accords with the requirements of Core Strategy 2010 Policy SP10, which seeks to ensure that buildings and neighbourhoods promote good design principles.

### **Heritage Assets**

- 8.34 Core Strategy policy SP10 and policy DM27 of the Development Management Document require development to protect and enhance the borough's heritage assets (including conservation areas and listed buildings), their setting and their significance as key elements of developing the sense of place of the borough's distinctive 'Places'. Similar policy objectives are included in London Plan policy 7.8.
- 8.35 The site is adjacent to the Crossharbour Conservation Area. Some of the dock walls within the site are Grade I Listed. The existing temporary pontoon bridge is set approximately 50mm away from the wall and does not adversely affect the historic fabric of the dock wall itself and the temporary impact on its setting is considered acceptable. The proposed Management Plan requires all other structures to be set back 1m from dock walls and temporary structures should safeguard the character and appearance of the conservation area. Given this, the proposals comply with the policies referred to above.

### **Amenity**

#### Noise – Policy

- 8.36 Core Strategy 2010 Objective SO10 seeks to deliver healthy and liveable neighbourhoods. Core Strategy Policy SP03 (2a) seeks to address the impact of noise and air pollution in the Borough by minimising and mitigating the impact of noise. Core Strategy Policy SP10 (4) seeks to ensure development protects amenity.
- 8.37 Policy DM25 Development Management Document seeks to ensure that proposals do not result in unacceptable levels of noise.
- 8.38 The Application has been accompanied by an Acoustic Planning Report which considers the likely noise impacts from the development in three main areas:-
- a. Noise from any temporary plant;
  - b. Noise during activities during events (internal and external); and,
  - c. Noise from increased traffic flow and construction.

### Plant Noise

- 8.39 There are sensitive residential noise receptors that could be affected by the proposed development. These include the houseboats in Blackwall Basin, residential properties in Trafalgar Way, along Preston's Road/Lovegrove Walk and to the south at Marsh Wall. There are also existing office and leisure uses on the Wood Wharf site. The survey has provided the results of noise monitoring to establish the baseline conditions.
- 8.40 The Acoustic Planning Report sets maximum noise output levels that must not be exceeded for plant running on each plot and it is recommended that a condition is placed on any permission to require any plant installed on the site to achieve the noise limits set in this Report.

### Event Noise

- 8.41 The noise from the events themselves would largely be controlled through the proposed Management Plan and includes restrictions on uses, amplified sound and live music, particularly in relation to Plot B, which is closest to existing housing and other measures to give advance notice to residents and deal with any complaints. The tables below set out the proposed restrictions and measures alongside the current ones.

**Table 1 – Plot A**

Duration of use	Life of consent
Uses	All proposed uses allowed
Hours of Operation	08:00 to 23:00
Live music	Allowed
Amplified music	Allowed
Advance notice	Applicant to provide advance notice of any proposed live music event to occupiers of buildings in a defined area* and post advance notice on its web site
Hotline	Applicant to set up, staff and advertise a hotline during all events involving live music or amplified so that local people can contact a person about any noise disturbance and share with LBTH the details of any complaints and action taken in response.

*\*Applicant to provide at least 7 days advance notice of any proposed live music event on Plot A by delivering leaflets to occupiers of buildings within 150m of the Plot and by posting notice on the Canary Wharf website. The leaflet and notice shall include details of the CWL Noise Hotline*

**Table 2 – Plot B**

	Proposed
Duration of use	Only April to September (24 weeks per year)
Uses	Leisure and Assembly (D2) uses not allowed (other than for Sport)
Hours of Operation	08:00 to 23:00
Live music	Not allowed
Amplified music	Not allowed

- 8.42 To control live music noise, the Management Plan confirms that the applicant will ensure that

all events held on the site comply with the Noise Council's Code of Practice on Environmental Noise Control at Concerts.

- 8.43 The Code of Practice sets maximum noise levels when measured at the nearest noise sensitive façade. The code sets different noise levels, depending on the duration of the event. The Code allows up to 12 days of events where music noise levels exceed the background noise level by 15dB(A) and up to 30 days where noise levels are 5db(A) above background.
- 8.44 Other activities associated with the use of the site could also cause amenity impacts. These could simply be the noise and activity caused by a very large number of people on the site, or from more specific noise sources, such as a PA system.
- 8.45 The site is within the Major Centre at Canary Wharf, and is in an Opportunity Area where higher levels of activity are encouraged. With the exception of its northern tip, Plot A is relatively remote from residential properties. There is some office, warehousing and leisure accommodation nearby, but these are not considered to be noise sensitive.
- 8.46 The location of these plots is such that the focus of activity would be towards Canary Wharf. Canary Wharf is a busy commercial centre and the proposed level of use would be compatible with this context. The use of these plots would stop at 23.00 hours which would give event visitors the opportunity to make their way home via public transport.
- 8.47 Plot B is more sensitive, as it is closer to residential properties. However, the applicant is proposing that this Plot is only used during the high summer season of April to September. As with Plot A, the hours of operation would be limited to 08.00 to 23.00. The proposed Management Plan would prohibit live music, the use of amplification or assembly and leisure uses, as set out in Table 2. These controls would limit the likely impact of general activity, noise and disturbance.
- 8.48 The Council would continue to be able to exercise control over specific events that come forward through the licensing regime or through legislation to prevent statutory noise nuisance.

Traffic and Construction Noise

- 8.49 Vehicle noise associated with events would be limited as the majority of visitors to the site are likely to make use of public transport. As discussed under the Access, Highways and Servicing Section above, the application makes very limited provision for car and coach parking and some provision for taxi drop-off and pick-up. The likely level of traffic noise is considered to be acceptable.
- 8.50 The proposed construction/deconstruction of temporary marquees and delivery and servicing times are set out below.

Table 3

	Proposed
Construction/ de-construction	07:00 to 18:00 Monday to Friday, 10:00 to 13:00 Saturday only
Deliveries	07:00 to 08:00, 09:00 to 16:00 Mondays to Fridays, 10:00 to 13:00 and 19.00 to 20.00 Saturday only  10.00 to 13.00 Sundays only

Servicing	07:00 to 08:00, 09:00 to 16:00 and 19:00 to 20:00 Mondays to Fridays, 10:00 to 13:00 and 19.00 to 20.00 Saturday only  10.00 to 13.00 Sundays only
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- 8.51 The Council's Code of Construction Practice does not allow construction activities before 08.00 Monday to Fridays as an earlier start is not considered acceptable. As with the previous permission, it is recommended that a condition be attached to any permission that prohibits work of construction/deconstruction before 08.00.
- 8.52 The implications of allowing deliveries and servicing for an hour either side of the morning peak traffic hour Monday to Friday is discussed under the Access, Highways and Servicing heading above and officers consider this is acceptable in traffic terms. Vehicular access to the Plots would be via the existing private estate road off Preston's Road, which is some distance from existing homes and this is also considered acceptable from an amenity point of view and it is therefore supported by officers

#### Lighting

- 8.53 The proposed Management Plan sets out maximum lighting levels for both and provides additional controls in relation to Plot B, these are considered acceptable.

#### Landscaping

- 8.54 Plot B has yet to be landscaped and it is recommended that the details of landscaping of this Plot are reserved by condition. This would enable officers to secure some screening along the eastern boundary, which would further help to preserve the amenity of residents of Lovegrove Walk. With these restrictions officers consider that, in planning terms, the likely impact on residential amenity would be acceptable. The same condition would also assist in mitigating potential impacts on wildlife.

#### **Flood Risk**

- 8.55 Core Strategy Policy SP04 seeks to ensure development reduces the impact and risk of flooding. The application has been accompanied by a Flood Risk Assessment (FRA) and two Addendums. The FRA notes that any additional surface water run-off will be drained into the docks to avoid any additional flow into the sewerage system. This accords with policy aims to promote sustainable drainage. The FRA and Addendums have been reviewed by the Environment Agency, who is satisfied with the proposal subject to a compliance condition.
- 8.56 The Environment Agency has raised the issue of evacuation in the unlikely event of a tidal breach. The applicant has confirmed that in the event of serious weather warnings (or presumably flood warnings) temporary events simply would not proceed. Officers consider that the nature of the proposals and the ability to not hold events in times of heightened flood risk means that a formal evacuation plan is not needed.

#### **Ecology and Biodiversity**

- 8.57 Core Strategy policy SP04 seeks to protect and promote biodiversity in the Borough. The submission has been accompanied by an Extended Phase 1 Habitat Survey prepared by WSP. The report concludes that a few parts of the site have limited ecological value, with other areas having negligible value. The report contains recommendations in terms of



monitoring the site for any protected species during any proposed works. Compliance with these recommendations would be secured by condition.

- 8.58 Part of the application site adjacent to Blackwall Basin (Plot B) comprises a series of old building foundations and areas of HGV parking and construction materials storage. The open mosaic ("wasteland") habitats support notable invertebrates such as the UK priority species Brown-banded Carder-bee and is the only area of wild habitat adjacent to the basin; this area is considered to add to the ecological value and is within a Site of Borough Grade I Importance for Nature Conservation. The applicant has submitted a summary of a Phase 1 Habitat Survey carried out in September 2012 that confirms the continued existence of these mosaic habitats.
- 8.59 The permitted long-term redevelopment of the site would result in the loss of this habitat, although this would be mitigated by incorporating biodiverse living roofs and other features to provide habitats. The temporary landscaping and use of Plot B would potentially damage these habitats with, unlike the proposed long-term redevelopment, little or no immediate opportunity to mitigate or compensate the loss of wildlife interest. However, the proposed landscaping of this area could provide some opportunity to safeguard/incorporate some biodiverse planting and, as before, the loss of this area is considered acceptable subject to reserving details of landscaping by way of condition.

### **Contamination**

- 8.60 Policy DM30 of the Development Management Document seeks to ensure that contaminated land is properly treated and made safe before development, to protect public health.
- 8.61 The site and surrounding area have been subjected to former industrial uses, which have the potential to contaminate the area. In the absence of any proposed significant intrusive ground works, Environmental Health has requested that a condition be attached to any permission requiring a watching brief when works are underway and that if any contamination is found, the developer will liaise with the Council about appropriate action to be taken. It is recommended that such a condition be attached to any permission.

### **Planning Obligations**

- 8.62 Core Strategy Policy SP13 states that the Council will negotiate planning obligations in relation to proposed development. The current temporary permission is subject to a number of planning obligations. These obligations and progress made in implementing them are set out as follows:-
1. Commitment to promote use of Skillsmatch for on-site employment.  
The applicant has stated that the level of activity at the Wood Wharf site over the past 15 months has regrettably meant the use of Skillsmatch was not feasible for any of the events held on the site. It has confirmed, however, that as the Canary Wharf's Arts and Events team programme events for 2013/14 they would promote Skillsmatch at the Wood Wharf site.
  2. Commitment to promote use of East London Business Place And local suppliers.  
The applicant has confirmed that it has written into the third party hiring agreement encouraging all event organisers to use East London Business Place where appropriate.
  3. Commitment to subscribe to London Eastside promotional services.  
The applicant has confirmed that it pays an annual subscription to have Wood Wharf

listed on the London Eastside website.

4. Commitment to encourage and facilitate community and school use.  
The applicant has confirmed that a number of local schools have been invited to the Wood Wharf site to visit the ship SA Agulhas which is to be used by Sir Randolph Fiennes on the world's first ever attempt to cross the Antarctic this winter (an expedition known as 'The Coldest Journey'). The schools taking part are as follows: Halley School; Cubitt Town; Holly Family Gate House (Private School); Bow School (Secondary School) and George Green (Secondary School).
5. Commitment to encourage and facilitate community and public activities on the site.  
The applicant has confirmed that two of the largest events (screening of the Olympics and three separate lunch markets) were provided free of charge and open to the local community to attend.

8.63 The applicant has confirmed that it is willing for these obligations to be rolled forward as part of any renewed temporary permission and officers recommend that any renewal is subject to a s.106 agreement that does this.

### **Conclusions**

8.64 All other relevant policies and considerations have been taken into account. Planning permission should be granted for the reasons set out in this Report.

**APPENDIX 1**

<b>Table 1: Parameter Plan Schedule</b>	<b>Plots</b>	
	<b>A</b>	<b>B</b>
<b>Plot Size</b>	16,139 m <sup>2</sup>	9,319 m <sup>2</sup>
<b>Maximum Useable Enclosed Floorspace (GEA)</b>	14,000 m <sup>2</sup>	8,700 m <sup>2</sup>
<b>Maximum Height of Temporary Structure</b>	12.95 m	12.95 m
<b>Maximum Site Coverage with temporary structure (%)</b>	62%	47%
<b>Minimum Open Space</b>	6,839 m <sup>2</sup>	4292 m <sup>2</sup>
<b>Duration of use</b>	Life of consent	April - September for life of consent
<b>Uses</b>	D1/D2/A3/A4/SG	D1/D2 (sports uses only)/A3/A4/SG
<b>Indoor/ Outdoor</b>	Both	Both
<b>Hours</b>	0800 - 2300	0800 - 2300
<b>Max. Car/Coach Parking</b>	Coach – 4* Staff - 8 Disabled – 8	Coach – 0* Staff – 4 Disabled – 4
<b>Min. Disabled car parking</b>	2	2
<b>Min. Cycle Parking Spaces</b>	80	40

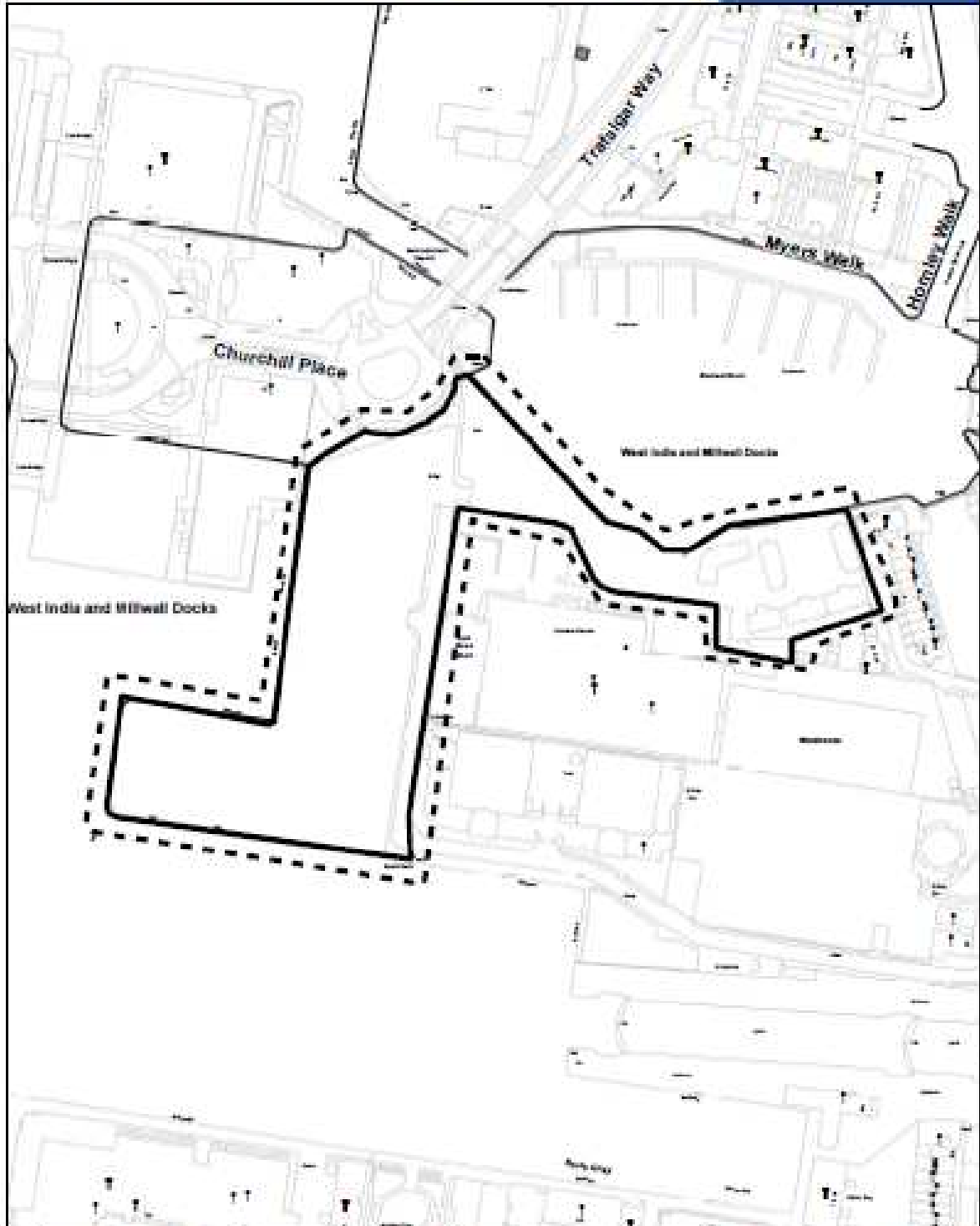
Notes – (1) site to be used for no more than 14,999 sq.m of enclosed floorspace at any one time; (ii) Note – site to be used for no more than 2,400 sq m Class A3/A4 uses; (iii) SG- Sui generis ((theatre, outdoor exhibition/sporting uses (falling outside of Class D1); and (iv) \* A maximum of 4 coach parking spaces will be provided on site which will be located on either plot A and/or B

**Table 2: Maximum Potential Use of Sites.**

	<b>January to March/October to December</b>	<b>April to September</b>
<b>Total enclosed floorspace</b>	14,000 sq.m	14,999sq.m
<b>Maximum size of Class A3/A4 unit per plot</b>	600 sq.m	600 sq.m
<b>Total Class A3/A4 floorspace</b>	2,400 sq.m	2,400 sq.m
<b>Plots in Use</b>	Plot A	Plots A and B
<b>Operating</b>	Up to 7 days a week	Up to 7 days a week
<b>Operating Hours</b>	0800 -2300	0800- 2300

- Note – site to be used for no more than 14,999 sq.m of enclosed floorspace at any one time.
- Note – site to be used for no more than 2,400 sq m Class A3/A4 uses.
- SG- Sui generis ((theatre, outdoor exhibition uses (falling outside of Class D1))

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	Planning Application Site Boundary		Locally Listed Buildings		Land Parcel Address	
	Consultation Area		Statutory Listed Buildings	0 15 m LLL		

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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