

DEVELOPMENT COMMITTEE

Thursday, 6 August 2015 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 Marc Francis
Vice Chair : Councillor Shiria Khatun
Councillor Sabina Akhtar, Councillor Rajib Ahmed, Councillor Suluk Ahmed, Councillor
Gulam Kibria Choudhury and Councillor Chris Chapman

Deputies:

Councillor Sirajul Islam, Councillor Andrew Cregan, Councillor Amina Ali and Councillor
Shah Alam

[The quorum for this body is 3 Members]

Public Information.

The deadline for registering to speak is **4pm Tuesday, 4 August 2015**
Please contact the Officer below to register. The speaking procedures are attached
The deadline for submitting material for the update report is **Noon Wednesday, 5
August 2015**

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

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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 - 14)

To confirm as a correct record the minutes of the meeting of the Development Committee held on 8th July 2015.

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 15 - 16)

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

	PAGE NUMBER	WARD(S) AFFECTED
5. DEFERRED ITEMS	17 - 18	
6. 12-14 TOYNBEE STREET, LONDON E1 7NE (PA/14/03376)		
Proposal:	19 - 46	Spitalfields & Banglatown
Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.		
Recommendation:		
That the Committee resolve to GRANT planning permission subject to conditions		
7. PLANNING APPLICATIONS FOR DECISION	47 - 48	
7 .1 219-221 Bow Road and 27-31 Payne Road, Bow, E3 2SJ (PA/14/03660)	49 - 86	Bow East
Proposal:		
Demolition of existing buildings and erection of four blocks of four, five and six storeys to provide 89 dwellings together with ancillary parking and landscaping.		
Recommendation:		
That the Committee resolve to GRANT planning permission subject to the prior completion of a legal agreement and the conditions in the Committee report		
7 .2 461 Bethnal Green Road (PA/15/00756)	87 - 98	St Peter's
Proposal:		
Change of use of lower ground floor from gym (Use Class D2) to 4x serviced apartments (Use Class C1).		
Recommendation:		
That the Committee resolve to GRANT planning permission subject to conditions.		

8. OTHER PLANNING MATTERS

None.

Next Meeting of the Development Committee

Thursday, 3 September 2015 at 7.00 p.m. to be held 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:-

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 5.30 P.M. ON WEDNESDAY, 8 JULY 2015

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

Members Present:

Councillor Marc Francis (Chair)

Councillor Sabina Akhtar

Councillor Rajib Ahmed

Councillor Suluk Ahmed

Councillor Chris Chapman

Councillor Amina Ali (Substitute for Councillor Shiria Khatun)

Councillor Shah Alam (Substitute for Councillor Gulam Kibria Choudhury)

Other Councillors Present:

None

Apologies:

Councillor Shiria Khatun

Councillor Gulam Kibria Choudhury

Officers Present:

Paul Buckenham

– (Development Control Manager,
Development and Renewal)

Christopher Hunt

– (Senior Planning Lawyer, Directorate
Law, Probity and Governance)

Beth Eite

– (Principal Planning Officer,
Development and Renewal)

Tim Ross

– (Deputy Team Leader - Pre-
application Team, Development and
Renewal)

Killian Harrington

– (Planning Officer, Development and
Renewal)

Zoe Folley

– (Committee Officer, Directorate Law,
Probity and Governance)

1. ELECTION OF VICE CHAIR OF THE COMMITTEE FOR 2015/16

It was proposed by Councillor Amina Ali and, seconded by Councillor Rajib Ahmed and **RESOLVED**

That Councillor Shiria Khatun be elected Vice-Chair of the Development Committee for the remainder of the Municipal Year 2015/2016

2. DECLARATIONS OF DISCLOSABLE PECUNIARY INTERESTS

No declarations of disclosable pecuniary interests were made.

Councillors Marc Francis, Rajib Ahmed, Suluk Ahmed, Chris Chapman, Amina Ali and Shah Alam declared an interest in the agenda items as they had received representations from interested parties.

Councillor Marc Francis declared an interest in agenda item 8.3 Rear of 459 Roman Road (PA/14/03667) as he lived in the Driffield Road Conservation Area however not near the site.

3. MINUTES OF THE PREVIOUS MEETING(S)

The Committee **RESOLVED**

That the minutes of the meeting of the Committee held on 16th June 2015 be agreed as a correct record and signed by the Chair.

4. RECOMMENDATIONS

The Committee **RESOLVED** that:

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

5. PROCEDURE FOR HEARING OBJECTIONS AND MEETING GUIDANCE

The Committee noted the procedure for hearing objections and meeting guidance.

6. DEVELOPMENT COMMITTEE TERMS OF REFERENCE, MEMBERSHIP AND MEETING DATES**RESOLVED**

That the Development Committee's Terms of Reference, Quorum, Membership and Dates of future meetings be noted as set out in Appendices 1, 2 and 3 to the report.

7. DEFERRED ITEMS

None.

8. PLANNING APPLICATIONS FOR DECISION**8.1 144-146 Commercial Street, London, E1 6NU (PA/15/00044)**

Paul Buckenham (Development Control Manager, Development and Renewal) introduced the proposal. By way of context, it was explained that the application was considered at the May 2015 meeting of the Committee and deferred for a site visit. However, given the membership changes at the Annual Council meeting and the unavailability of Members from the May meeting to bring the item back as a deferred item, it had been necessary to bring the application back afresh to avoid a delay in determining the application.

The Chair then invited registered speakers to address the Committee.

David Donahue spoke in objection to the proposal representing the adjacent Commercial Tavern public house. He objected to the impact of the proposal on the tavern given it was a stunning asset for the area and its historic importance. In particular, he objected to the impact on the roof line of the tavern and the height difference between the development and the tavern. The images failed to accurately show this. He also expressed concerns about the affordability of the residential units and the displacement of the existing occupants within the development.

Stuart Eaves (Applicant's Agent) spoke in support of the proposal. He confirmed that the scheme had been amended to minimise the impact on the tavern in consultation with Officers. For example, the height of the building had been reduced and the stairwell altered. The materials would be sympathetic to the host building and the surrounding area. The ground floor use would be retained and improved in compliance with the London Plan. Additional images had been supplied to show the full impact of the development including sky and street views. This showed that the impact would be minimal in this regard. In response to a question about the green roof, it was explained that, given the height of the parapet, that the feature could be concealed.

Beth Eite (Deputy Team Leader, Development and Renewal) gave a presentation on the application. It was noted that the subject property was locally listed and the Commercial Tavern Public House was a grade 11 listed building. The application had been subject to consultation and the issues raised were explained around intensification of residential accommodation, impact on the surrounding area and neighbouring amenity.

Members were advised of the key features of the scheme including the roof extension that would be largely concealed from view by the existing parapet. They also noted the revised stairwell, the layout of the scheme and the nature of the residential units. All of which would be dual aspect with access to private amenity space. It was also noted that the impact on neighbouring amenity was acceptable in light of the amendments and modest nature of the plans.

In summary, the plans overcame the previous reasons for refusal. In view of the merits of the scheme, Officers were recommending that it be granted permission.

In response to questions, Officers explained in further detail the main changes to the scheme to overcome the previous concerns (in terms of the height and design). The roof extension now only marginally exceeded the height of the parapet. Images of the key differences were shown. Given the changes and the set backs in design, the plans would have no impact on views from the south or would affect the setting of the surrounding buildings. Officers also answered questions about the consultation exercise.

On a vote of 4 in favour and 2 against, the Committee **RESOLVED**:

1. That planning permission at 144-146 Commercial Street, London, E1 6NU be **GRANTED** for a new single storey roof extension within the existing roof void to create a 1 x 1 bed residential unit; construction of four storey rear extension to facilitate new stair case; reconfiguration of window arrangement at the rear and refurbishment of the front façade and installation of a green roof.
2. That the Corporate Director Development & Renewal is delegated power to impose conditions and informatives on the planning permission to secure the matters set out in the Committee report.

8.2 12-14 Toynbee Street, London E1 7NE (PA/14/03376)

Update Report Tabled.

Paul Buckenham (Development Control Manager, Development and Renewal) introduced the proposal. The Chair then invited registered speakers to address the Committee.

Dale Ingram (Historic building and planning consultant) spoke in objection to the application on behalf of the tenant of the public house. She drew attention

to the strength of opposition to the plans including over 300 individual objections and an online petition with over 500 plus signatures. Many customer of the public house were at the meeting tonight. It was feared the plans would make the public house unviable due to the loss of the outdoor gardens, lack of provision for a bar counter and toilets and the loss of income from the changes. The outdoor area was one of its main assets. Furthermore, due to the changes to the garden space, there would be overspill of customers onto the streets creating noise nuisance, as experienced when the garden was much smaller. She also expressed concern at the overprovision of one bed units. In response to questions about the perceived lack of facilities, Ms Ingram stated that at least two toilets would be needed as well as disabled facilities. She also answered questions of clarity about the loss of outdoor space.

Paul Keenan spoke in support on behalf of the applicant. He explained the merits of the application. The alterations (including new residential units) would be in keeping with the original building that was not listed and would be subservient to the existing building. The residential units would have access to balconies with louvres, added to mitigate any direct overlooking. The plans would improve the frontage of the building and the ground floor layout would be reorganised to make better use of the space. It was emphasised that it was intended that the commercial use would remain an A4 drinking establishment. The applicant was happy to accept the condition removing the permitted development rights to ensure this. There were plans showing that a bar counter could be incorporated into the scheme. The plans for the outdoor area had been amended following consultation to increase the size of that area from that originally proposed.

In response to questions, he further explained that the new residential units complied with policy and were of much better quality than the existing properties. He further explained the amendments to address the concerns. This included the addition of louvres to the private balconies, a bigger smoking area and the relocation of the refuse facility. He referred to the difficulties with building the scheme within the existing layout. This would warrant greater changes to the public house to the detriment of the building.

It was emphasized that the internal floor space of the pub would be increased as a result of the changes.

He also answered questions about the design, described as simple and elegant to complement the existing building and respond to the surrounding area. Replicating the existing public house would confuse the building. Consideration had been given to various different housing mixes such as including larger units in the scheme. However this would adversely affect the viability of the scheme.

Killian Harrington (Planning Officer, Development and Renewal) presented the report. He advised that the site falls in Conservation Area and there were a number of listed buildings around the site. He explained the key features of the scheme including the proposed extension, the internal layout and the revised outdoor area. He also explained the outcome of the consultation.

The proposed land use was acceptable and complied with policy given the proposed retention of the A4 public house use and the established residential use. Whilst there would be a loss of garden space, it would still be a reasonable sized space. The housing mix was acceptable given the site constraints. The design was in keeping with the area and the setting of the public house and complied with Conservation Area policy. Aspects of the design were explained. The plans had been amended to protect residential amenity and the measures to ensure this were explained including the noise mitigation.

There had been a letter in support from the neighbouring Carter House stating that on balance it should improve their quality of life due to the reduction in size of the smoking area. Whilst the property would suffer from a minor loss of light, the results complied with the policy standards.

Overall, given the merits of the scheme, Officers were recommended that it be granted planning permission.

Members asked questions about:

- The impact on the viability of the public house given the changes to the floor space, garden space and the quantity of the new facilities. It was also questioned whether the pub garden represented a gap site or was part of the main use of the site.
- The removal of permitted development rights. Assurances were sought that this would safeguard the viability of the public house given the changes.
- Appearance of the proposal. It was feared that the plans could over dominate the rear of the building. It was also felt the 'artificial' design would be out of keeping with the traditional Victoria building and that steps should be taken to preserve this.
- The consultation exercise given the above issues.
- Noise mitigation. Whilst noting the conditions, it was questioned whether they would be sufficient given experience with similar developments.
- The proposed housing mix. Questions were asked about the lack of family sized units and the number of replacement units given the demand for housing in the Borough.

In response to questions, Officers explained in further detail the condition removing the permitted development rights. The 2015 order could not be applied. Any change of use would require separate planning permission. This condition should safeguard the viability of the public house going forward. Under current policy any applications for change of use would be resisted. It was also explained that there was no guidance in policy setting a minimum size to make a public house viable

It was also explained that the current building was not listed and no application for listing had been received. Currently, there were five one

bedroom units above the public house. Environmental Health had no objections to the scheme subject to the conditions to mitigate the noise.

It was reported that the LBTH Conservation Officer had been consulted on the plans from the onset and had worked closely with officers on the plans. It was felt that the contemporary design would be in keeping with the area and would enhance the setting of the area where there were many examples of traditional and modern buildings together. The plans would also irradiate an infill site in accordance with Conservation Area guidance. Officers explained the reasons why the garden represented a gap site as set out in the Conservation Area appraisal.

In terms of the consultation, there had been three different rounds addressing each of the issues. All of the history groups were consulted and the early objections were based on the impact on the public house. The more recent ones were more about the impact on amenity reflecting the changes to the application over the course of the consultation.

On a unanimous, the Committee did not agree the Officer recommendation to grant planning permission

Accordingly, Councillor Rajib Ahmed proposed and Councillor Amina Ali seconded a motion that the recommendation that planning permission be granted should not be accepted (for the reasons set out below) and on a unanimous vote it was **RESOLVED**:

That the Officer recommendation to grant planning permission at 12-14 Toynbee Street, London E1 7NE be **NOT ACCEPTED** for the demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use); replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor (reference PA/14/03376)

The Committee were minded to refuse the scheme due to concerns relating to:

- 1) Harm to the setting of the pub, from the loss of the pub garden and the proposed residential extension which would fail to preserve or enhance the character and appearance of the conservation area, by reason of it's overall design, appearance and relationship to the host building.
- 2) Effect on future viability of the public house, arising from the loss of the outdoor drinking space and erection of residential development
- 3) Effect on neighbouring amenity arising from increased noise and disturbance.

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.

Councillor Sabina Akhtar did not vote on this item having not been present throughout the consideration of the application.

8.3 Rear of 459 Roman Road (PA/14/03667)

Update report tabled.

Paul Buckenham (Development Control Manager, Development and Renewal) introduced the proposal. The Chair then invited registered speakers to address the Committee.

Peter Dobbin spoke in objection as a resident of a nearby property. He considered that the proposal would worsen the existing problems with parking at the site to the detriment of the occupants quality of life. The erection of a Mews House would also lead to the right of way access strip becoming blocked preventing residents from accessing their car parking spaces. The application should be deferred for a site visit so that Members can fully assess the impact of the proposal. In response to Members, he clarified his concerns.

Kieran Rafferty spoke in support. He drew attention to the revised design following consultation to ensure that the scheme was in keeping with the surrounding properties. He also explained the previous and existing use of the site, the access arrangements and provided assurances regarding the right of way. He also described the measures to protect privacy.

Tim Ross (Deputy Team Leader, Development and Renewal) gave a presentation on the application. He highlighted the site location, the surrounding area (including the location of the objector's property who had addressed the meeting) and the access routes. The site was located in the Conservation Area. However there were no listed buildings in the vicinity of the application site.

Consultation had been carried out and the issues raised were explained, especially the concerns about increased car parking from the scheme.

Members were advised of the key features of the scheme including: the layout, the wall to be demolished (that was not a heritage asset) the revised design and the proposed materials that were in keeping with the area. They also noted the quality of the new unit and that the impact on amenity was acceptable.

Given the merits of the scheme Officers were recommending that it be granted permission.

In response to questions, Officers noted the objections about parking pressure from the scheme in view of the existing issues in this regard. Therefore, to address the concerns, the scheme would be car free. The right of way was a civil matter. However, it was unlikely that the addition of one property should block access to properties given the car free agreement and the access arrangements.

Officers also described the new boundary treatment retaining a similar relationship with the boundary edge as the existing wall. It would be very difficult to park a vehicle in the site boundary. However, to address the concerns about parking in the application site area, an addition condition could be added to prevent this. Accordingly it was proposed by Officers and agreed by the Committee that details of boundary treatment be submitted for approval to prevent car parking within the application site.

The plans should have little impact on neighbouring amenity in terms of daylight, noise etc. The concerns around amenity were more about how the increased parking pressure could affect amenity.

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

That planning permission be **GRANTED** at Rear of 459 Roman Road for construction of a mews house to the rear of existing shop/residential building(PA/14/03667) subject to the conditions set out in the committee report and the addition condition agreed at the meeting that details of boundary treatment be submitted and approved.

9. OTHER PLANNING MATTERS

None.

The meeting ended at 7.40 p.m.

Chair, Councillor Marc Francis
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.	Shall be entitled to an equal time to that given to any objector/s. For example: <ul style="list-style-type: none"> • Three minutes for one objector speaking. • Six minutes for two objectors speaking. • Additional three minutes for any Committee and non Committee Councillor speaking in objection.
Members of the public in support	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 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>Deadlines. 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 www.towerhamlets.gov.uk/committee - 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>The Rules of Procedures for the Committee are as follows:</p> <ul style="list-style-type: none">• Development Committee Procedural Rules - Part 4.8 of the Council's Constitution (Rules of Procedure).• Terms of Reference for the Strategic Development Committee - Part 3.3.5 of the Council's Constitution (Responsibility for Functions).• Terms of Reference for the Development Committee - Part 3.3.4 of the Council's Constitution (Responsibility for Functions).	 <p>Council's Constitution</p>

Agenda Item 5

Committee: Development	Date: 6 th August 2015	Classification: Unrestricted	Agenda Item No: 6
Report of: Corporate Director Development and Renewal		Title: Deferred Items	
Originating Officer:		Ref No: See reports attached for each item	
		Ward(s): 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	Reference number	Location	Development	Reason for deferral
8 th July 2015.	(PA/14/03376)	12-14 Toynbee Street, London E1 7NE	Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.	<p>Harm to the setting of the pub, from the loss of the pub garden and the proposed residential extension which would fail to preserve or enhance the character and appearance of the conservation area, by reason of it's overall design, appearance and relationship to the host building.</p> <p>Effect on future viability of the public house, arising from the loss of the outdoor drinking space and erection of residential development</p> <p>Effect on neighbouring amenity arising from increased noise and disturbance.</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

3. CONSIDERATION OF DEFERRED ITEMS

3.1 The following deferred application is for consideration by the Committee. The original report along with any update reports are attached.

6.1 12-14 Toynbee Street, London E1 7NE (PA/14/03376)

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. 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.

5. RECOMMENDATION

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

Agenda Item 6

Committee: Development Committee	Date: 6 th August 2015	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director of Development & Renewal Case Officer: Killian Harrington		Title: Planning Application Ref No: PA/14/03376 Ward: Spitalfields and Banglatown	

1. APPLICATION DETAILS

Location: 12-14 Toynbee Street, London E1 7NE

Existing Use: Public house (A4) and residential dwelling (C3)

Proposal: Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.

Drawing and documents:

Drawings:
Site location plan,
187_GA_01 REV B
187_GA_02 REV B
187_GA_03 REV C
187_GE_00 REV A
187_GE_00 REV B
187_GE_01 REV B
187_GE_03 REV B
187_GS_01 REV B
187_GA_-01 REV A
187_GA_04 REV A
187_GS_00 REV A
187_GS_02 REV B

Documents:
Design & Access Statement prepared by

21st Century Architecture Ltd dated April 2015
Daylight & Sunlight report prepared by BVP dated
December 2014
Environmental Noise Survey and Noise Impact
Assessment Report prepared by Hann Tucker
Associates dated November 2014
Energy Strategy prepared by AJ Energy
Consultants Ltd dated November 2014.

Applicant: Mendoza Ltd
Ownership: Mendoza Ltd
Historic Building: N/A
Conservation Area: Wentworth Street Conservation Area

2.0 BACKGROUND

- 2.1 This application was reported to the Development Committee on the 8th July 2015, with an Officers recommendation to **GRANT** planning permission.
- 2.2 The committee resolved not to accept officer recommendation due to concerns that related to harm to the setting of the public house; the loss of the pub garden; the effect of the development on the character and appearance of the Conservation Area, the effect on the future viability of the pub and noise impacts on neighbours.
- 2.3 In accordance with Development Procedural Rules, the application was **DEFERRED** to the next committee to enable officers to prepare a deferral report to provide wording for reasons for refusal and providing commentary on the detailed reasons for refusal on the application.

3.0 THE COMMITTEE'S PROPOSED REASONS FOR REFUSAL

- 3.1 The Committee were minded to refuse the applications on the following grounds:
- Harm to the setting of the pub and the failure to preserve or enhance the character and appearance of the Wentworth Street Conservation Area
 - Effect on future viability of the Duke of Wellington pub
 - Neighbour amenity (noise)

Harm to the setting of the pub and the Wentworth Street Conservation Area

- 3.2 In their report to Committee Members, officers considered that there would not be substantial harm to the Conservation Area.

- 3.3 The Court of Appeal's decision in *Barnwell Manor Energy Limited v East Northamptonshire District Council* [2014] is of relevance to this application. This clarified that where a decision maker finds that a proposed development would harm the character or appearance of a conservation area, it must give that harm considerable importance and weight and very special public benefits should be required to outweigh that harm.
- 3.4 Section 12 Paragraphs 133 and 134 of the NPPF address the balancing of harm to designated heritage assets against public benefits. If a balancing exercise is necessary, considerable weight and importance should be applied to the statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) where it arises.
- 3.5 In the officer's report to Committee Members, in terms of the proposals impact on local heritage assets, it was considered that the proposal enhanced and preserved the setting of the Conservation Area, and did not harm the setting of nearby listed buildings and the historic integrity of the pub building. It was considered that there was no requirement to weigh the public benefits of the proposal against potential harm.
- 3.6 If it is the case that the proposal would cause significant harm to the Conservation Area, then the public benefits of this proposal include the fact that the pub's historic features would remain in situ and the building being renovated, extended and preserved to a high standard for continued public house use. In addition, 5 additional new homes would be provided, helping to meet the borough's need for new homes.
- 3.7 Members have given more weight to the harm caused by the 3 storey extension and the impact of this on the character of the area than the alterations to the pub building. The borough's Conservation Officer's opinion is that the design is appropriate, and the proposal broadly accords with the Wentworth Street Conservation Area appraisal guidance in part due to its sensitive height and scale. It is however acknowledged that it is appropriate to consider the existing Duke of Wellington Public House as a non-designated heritage asset that provides a positive contribution to Wentworth Street Conservation Area.
- 3.8 Conversely, Members considered that there was no attempt to reference the vernacular design of the pub building in the extension building and that its modern shape and materials would be out of character. Members of the Committee also disagreed with officers that the pub garden represented a "gap site" as referenced in the Conservation Area Character Appraisal and instead considered that the pub garden was an important part of the main use of the site and that the loss of the garden through re-development would harm the setting of the pub, being a non-designated heritage asset within the Conservation Area. The development would cause harm to the character and appearance of the Conservation Area which is contrary to local plan policies DM23, DM24 and DM27 and the provisions of the NPPF set out above. As such the draft wording for this reason for refusal is outlined under Recommendation.

Effect on the future viability of the Duke of Wellington pub

- 3.9 In the previous officers' report it outlined that the reduction in the size of the pub garden could potentially be detrimental to the future viability of the pub. When the existing pub garden and internal floor space of the pub (which equates to 184sqm in total) are taken into account, overall there is a net loss of 26sqm. To protect the continued A4 pub use, officers recommended the removal of Permitted Development (PD) rights so as to prevent the change to any other use without the planning authority first receiving a planning application.
- 3.10 Officer's took a view in this case that removing permitted development rights that allow changes of use to other Class A uses without planning permission, there would be a much stronger likelihood of the building continuing to function as a public house in accordance with the aims of the Council's MDD Policy DM8 Community Infrastructure. There is no conclusive evidence that the reduction in the size pub garden space will make the pub unviable. However many objectors have suggested that this is the main attraction of the pub given the lack of alternative pub gardens in this area. The extent that the proposal will render the continued use as a public house unviable is a matter of fact and degree and anecdotal evidence. It should be noted that the internal floor space of the pub will increase as a result of the proposed development, although there is no information to show how the extended Class A4 floor space would be laid out.
- 3.11 However, Members did not consider the removal of Permitted Development rights to be a sufficient measure to protect the pub's viability, despite being reminded that this was always difficult to guarantee in planning terms.
- 3.12 In the absence of any viability evidence, this proposed reason for refusal could be difficult to sustain if the applicant were minded to exercise their rights to an appeal. There are also no Development Plan policies or supplementary guidance that set a minimum size for pub gardens to make the pub viable. Nevertheless, the draft wording for this reason for refusal is outlined under Recommendation.

Detrimental impact on neighbour amenity

- 3.13 In the previous officers' report it was outlined how the minor impacts on the amenity of Carter House residents and future residents at 12-14 Toynbee Street would be mitigated. This includes reducing overlooking by providing directional louvres for the proposed rear balconies and setting rear windows at a high level. Noise impacts would be mitigated by the Council recommending a compliance condition (pub garden must be vacated nightly by 10pm) and a pre-commencement condition requiring the submission of sound proofing details for approval by the planning authority.
- 3.14 However, despite reasonable measures outlined above and the site's location in the Central Activities Zone (CAZ), Members still considered that it would be unreasonable for future occupiers of the proposed units to be subject to noise from a pub and garden. The Committee was also concerned that the increase in internal space coupled with a reduction in external garden space would result in

overspill of pub customers onto the adjoining pavements. Whilst other regulatory regimes (i.e. licensing) would be able to control extent of outdoor drinking permitted, the planning system has an important role in considering amenity impacts. It would be reasonable to conclude that the significant reduction in the size of outdoor space at a popular and well patronised public house would inevitably result in some customers congregating outside in the adjoining streets thereby dispersing noise and disturbance more widely than at present. Hence, a suitably worded reason for refusal is listed below.

- 3.15 Whilst officers do not wish to change their original recommendation, the views of the Committee and the comments from the objectors to the application are important material considerations.

Implications of a decision to refuse planning permission

- 3.16 In the event that the Committee resolves to refuse the application, the following options could be exercised by the applicant.
- 3.17 The applicant could approach the Council for further pre-application advice on an amended proposal and thereafter submit a new application that deals with the reason for refusal.
- 3.18 The applicant could exercise their right to appeal to the Secretary of State against the Council's decisions. The appeals would be determined by an independent inspector appointed by the Secretary of State. Section 3 of this report sets out the officer assessment of the likelihood of success in defending the reason for refusal. However if the Committee do resolve that the application for planning permission should be refused officers will seek to robustly defend the Council's position.

4.0 RECOMMENDATION

- 4.1 Officers' original recommendation as set out in the officers' report for Development Committee on 8th July 2015 to grant planning permission for the proposal remains unchanged.
- 4.2 However, if Members are minded to refuse planning permission for this scheme, then officers would recommend the following 1 reasons for refusal:

Application for planning permission (PA/14/03376)

1. The proposed development would cause harm to the Wentworth Street Conservation Area. The design and appearance of the proposed modern extension would be out of character with the local area and would cause harm to the character and appearance of the Wentworth Street Conservation Area and combined with the loss of the pub garden would harm the setting of other local heritage assets, including the Duke of Wellington Public House itself. This harm is not outweighed by the public benefits of the scheme and

therefore the proposed development fails to comply with policies DM24 and DM27 of the Managing Development Document (2013), SP10 of the Core Strategy (2010), policies 7.4 and 7.8 of the London Plan (Consolidated with Alterations since 2015), the National Planning Policy Framework (2012) and National Planning Policy Guidance.

2. The proposed development would result in the loss of existing outdoor space that would undermine the future viability and vitality of the existing Duke of Wellington pub (12-14 Toynbee Street) and thereby fail to protect its function as community infrastructure. As such, the proposal would be contrary to policy SP01 of the adopted Core Strategy (2010) and policies DM2 and DM8 of the Managing Development Document (2013), Policy 3.1(b) of the London Plan 2015, National Planning Policy Framework (2012) and the National Planning Policy Guidance.
3. The proposed development would be detrimental to the amenity of new residents of the proposed development due to the potential for fumes and excessive noise resulting from the close proximity of the proposed residential accommodation and the proposed smoking area and public house use and would result in increased noise and disturbance to the occupiers of existing residential properties. Therefore the proposal would be contrary to policy DM25 of the Managing Development Document (2013), the London Plan 2015 National Planning Policy Framework (2012) and the National Planning Policy Guidance.

Committee: Development Committee	Date: 8 th July 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Killian Harrington	Ref No: PA/14/03376
	Ward: Spitalfields and Banglatown

1. APPLICATION DETAILS

Location: 12-14 Toynbee Street, London E1 7NE

Existing Use: Public house (A4) and residential dwelling (C3)

Proposal: Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.

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December 2014
Environmental Noise Survey and Noise Impact
Assessment Report prepared by Hann Tucker
Associates dated November 2014
Energy Strategy prepared by AJ Energy Consultants

Ltd dated November 2014.

Applicant:	Mendoza Ltd
Ownership:	Mendoza Ltd
Historic Building:	N/A
Conservation Area:	Wentworth Street Conservation Area

2. EXECUTIVE SUMMARY

- 2.1 This report considers an application for external alterations to the existing Duke of Wellington public house and a three-storey extension to provide a total of 5 flats.
- 2.2 This application has attracted a total of 382 written objections. The main concerns raised by objectors relate to the potential loss of A4 use (either immediately or gradually over time), the removal/reduction of the pub garden, inappropriate mix of residential units, impact on the Wentworth street Conservation Area and residential amenity. Careful consideration has been given to these concerns, as well as the following material planning considerations; land use, heritage and design, standard of accommodation and neighbour amenity.
- 2.3 The Council consider the proposal to be acceptable for the following reasons:
- The proposal, by juxtaposing a well-proportioned, modern building with the restoration of a Victorian pub is considered to create a lively and dynamic street frontage, providing a strong building line and sense of security for local residents and a more definitive sense of place.
 - The alterations to the pub are considered acceptable as the roof extension is subservient to the host building and does not compromise the character of the Victorian era pub.
 - A pub garden is a functional auxiliary space that only acts to supplement the public house facility. Customers can still avail of a reasonably sized outdoor amenity space for smoking and socialising and are therefore the operation of the use is not profoundly disadvantaged as a result of the proposal.
 - The proposed accommodation meets the minimum standards as set out in the London Plan Housing Design Guide and other policies outlined in this report.
 - The amenity of neighbouring occupiers would not be unduly detrimentally impacted as a result of the proposal.
 - The proposed design is in keeping with the character of the area and both enhances and preserves the Wentworth Street Conservation Area.
- 2.4 As explained within the main report, the proposal is in accordance with the Development Plan and all other material considerations.

3.0 RECOMMENDATION

3.1 That the Committee resolve to GRANT planning permission subject to the following conditions:

3.2 Conditions on planning permission

- (a) Three year time limit
- (b) Development to be built in accordance with the approved plans
- (c) Permit-free condition
- (d) Removal of Permitted Development rights to protect A4 use
- (e) Construction management plan
- (f) Directional louvres (to protect privacy of neighbours)
- (g) Submission of proposed materials and detailed drawings
- (h) Pub garden shall close at 10pm every day and no outdoor amplified music will be permitted at any time
- (i) Noise insulation measures

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

4.0 PROPOSAL AND LOCATION DETAILS

Site and Surroundings

4.1 The site of the proposed development (12-14 Toynbee Street) is a corner site situated at the junction between Toynbee Street and Brune Street. It consists of the public house (Duke of Wellington), believed to have been built in the 19th century, and the adjacent yard/empty space currently in use as a storage and amenity area. Neighbouring buildings include a community centre immediately to the south. The surrounding area contains a mixture of residential flats and high rise office buildings with an increasing intensification of land use and diversification of commercial activity. The pub is not a listed building but the site is located in the Wentworth Street Conservation Area.

The Proposal

4.2 The application proposes the following:

- (a) Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use) that would also make use of the upper floors of the existing public house building. Replacement outdoor area to be reconfigured to the rear of the site.
- (b) External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining

existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.

Relevant Planning History

4.4 There is no comprehensive planning history for this property and its authorised planning use is somewhat unclear. However, given the building's historic public house use and Council tax payment evidence, the property is divided between A4 use on the ground floor with one residential unit (C3 use) on upper floors.

- In 1993, planning permission was granted (ref BG/93/00026) for the demolition of an existing paint store and the construction of a tenants meeting room.
- In 2012, a planning enforcement case (ref. ENF/12/00412) queried the unauthorised extension in the pub garden, on foot of a noise complaint. As it had been there since 2008, it was subsequently deemed to be exempt from enforcement action.

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 Guidance/Statements

- National Planning Policy Framework (March 2012) (NPPF)
- National Planning Practice Guidance (March 2014)

5.3 Spatial Development Strategy for Greater London –March 2015, Consolidated with alterations since 2011 (LP)

- 3.3: Increasing housing supply
- 3.5: Housing Standards
- 7.4: Local Character
- 7.5: Public Realm
- 7.8: Heritage Assets and Archaeology

Mayor of London Housing Supplementary Planning Guidance (2012).

5.4 Tower Hamlets Core Strategy (adopted September 2010)

- SP02: Urban living for everyone
- SP05: Provide appropriate refuse and recycling facilities
- SP09: Creating Attractive and Safe Streets and Spaces
- SP10: Creating distinct and durable places
- SP12: Delivering Place making

5.5 Managing Development Document (2013) (MDD)

- DM3: Delivering Homes
- DM4: Housing Standards and Amenity Space
- DM8: Community Infrastructure
- DM14: Managing Waste

DM20: Supporting a sustainable transport network
DM22: Parking
DM23: Streets and the public realm.
DM24: Place Sensitive Design
DM25: Amenity
DM27: Heritage and the historic environment

5.6 Other Relevant Documents

The Wentworth Street Conservation Area Character Appraisal and Management Guidelines, LBTH (2007)

CONSULTATION RESPONSE

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

5.8 The following were consulted regarding the application:

External Consultees

Thames Water

5.9 Informative comment received

Historic England

5.10 No objection. Responded that the application should be determined in accordance with national and local policy guidance, and on the basis of specialist conservation advice.

Greater London Archaeology Advisory Service (GLAAS)

5.11 No archaeological requirements

Internal Consultees

LBTH Highways and Transportation

5.12 Highways have no objection to the proposed development. Highways require a section 106 'car parking permit' free agreement for this development as it is located in excellent PTAL area (PTAL 6b). Refuse storage is within the maximum distance recommended between storage and collection point; therefore it complies with Council policy. The cycle spaces are not convenient or safe. Location beside refuse storage is inappropriate.

5.13 [Planning Officer comment]: *In response to the above advice, the applicant revised the ground floor layout to ensure bins were enclosed behind doors and separated from cycle spaces. The cycle spaces have also been relocated nearer the front entrance to make them more accessible and safe. This revised layout was considered acceptable by the Highways officer.*

LBTH Environmental Health: Noise and Vibration

- 5.14 The Environmental Health (Noise & Vibration) Officer raised concerns about the stacking of the third floor living/kitchen area above a 2nd floor bedroom in the existing public house building. Robust mitigation measures that go above and beyond current British standards must be applied.

[Planning Officer comment]: *The applicant subsequently revised the layout to prevent incompatible stacking. No further objection.*

LBTH Design and Conservation

- 5.15 *The extensions to the existing building have been designed to reflect the overall architectural character of this attractive late nineteenth century/earlier twentieth century public house. Detailed design will be important and the necessary quality should be secured by condition. The southern flank wall of the public house was evidently not originally visible and it appears that other buildings originally abutted the public house. The proposed new build element will partly conceal this southern flank. I have no objections to the overall scale, form and design of the proposed building but it is essential that robust conditions are attached to ensure the necessary architectural quality.*
- 5.16 [Planning Officer comment]: *This will be secured via a submission of details condition attached to this decision.*

LBTH Energy Efficiency

- 5.17 No objection

Neighbours Representations

- 5.18 Asite notice was erected and press notice published. A total of 100 planning notification letters were sent to nearby properties as detailed on the attached site plan. Local community and historical groups were also consulted. Due to changes to the planning application, there were a total of 3 rounds of public consultation. These are detailed as follows:
- 22/12/2014 First consultation.
 - 30/01/2015 Reconsultation due to inconsistencies in the planning application, drawings and Design and Access Statement.
 - 17/04/2015 Reconsultation due to an amended design showing reconfigured layout, revised unit mix to 1-bed apartments, recessed balconies to the front and an enlarged pub smoking area
- 5.19 A total of 382 written objections were received over the course of the 3 consultation periods, which included representations from the current tenant and customers of the Duke of Wellington, local residents and businesses, CAMRA and objections from Rushanara Ali, MP (Bethnal Green and Bow) and GLA Assembly Member John Biggs (and subsequently elected Mayor of Tower Hamlets). Two petitions of 50 signatures were also received.
- 5.20 One letter of support was received from a resident at Carter House, whose bedroom windows directly face the proposed development. The resident stated that the proposal, despite potentially blocking daylight/sunlight, would improve overall their amenity by reducing the noise impact of the existing smoking area.

Main reasons of objection:

5.21 Loss of pub and patio area

[Planning Officer comment]: *The applicant has revised Section 18 of the planning application form, proposed drawings and the Design and Access Statement to demonstrate that there would be no loss of pub. The 'commercial unit' as indicated on drawings is intended to remain as A4 use (drinking establishments). This will also be secured via a condition attached to this decision to prevent any future change of use under permitted development rights. The loss of patio area is discussed within the Material Planning Considerations section of this report.*

5.22 The new building design is out of character with the surrounding area.

[Planning Officer comment]: *LBTH Conservation Officer is satisfied that the applicant has designed the refurbishment of the 19th century building and adjacent construction of the three-storey building to sit comfortably within the Wentworth Street Conservation Area. This is discussed within the Material Planning Considerations section of this report.*

5.23 The revised proposal is for 1 bed flats only and does not accord with Council policy.

[Planning Officer comment]: *This issue is discussed under Material Planning Considerations section of this report.*

5.24 The proposed flats will not be affordable for the community and will remove existing rented accommodation.

5.25 [Planning Officer comment]: *The proposed scheme is below the threshold for providing affordable housing (10 units).*

5.26 The new patio is too small

[Planning Officer comment]: *This issue is discussed under Material Planning Considerations section of this report.*

5.27 The residential quality and amenity of the proposed flats will be poor.

[Planning Officer comment]: *The size, layout and amenity space provision of the proposed flats are policy compliant.*

5.28 The amenity of Carter House residents will be adversely affected

[Planning Officer comment]: *This issue is discussed under the Material Planning Considerations section of this report.*

6.0 MATERIAL PLANNING CONSIDERATIONS

6.1 The main planning issues raised by the application that the committee are advised to consider are:

- Land Use;
- Heritage and Design;

- Standard of Accommodation;
- Neighbour Amenity; and
- Other issues

Land use

- 6.2 In terms of the principle of residential use, delivering new housing is a key priority both locally and nationally. Policy 3.3 of the London Plan seeks to alleviate the current and projected housing shortage in the Capital through the provision of an annual target of 3,910 homes. This is reflected in LBTH Core Strategy policy SP02.
- 6.3 The principle of residential use in the area is already well established with blocks of flats such as Carter House surrounding the site. With a PTAL rating of 6a (designated as 'excellent'), this is an appropriate location for residential development in accordance with the London Plan 2015. The approved planning application ref. PA/11/02305 for 11-31 Toynbee Street opposite the Duke of Wellington delivers ground floor commercial use and residential units on upper floors, such as that submitted.

Loss of public house

- 6.4 MDD Policy DM8 details the Council's approach to Community Infrastructure. Paragraph 8.4 in the supporting text lists public houses as a community facility. The policy states that health, leisure, social and community facilities will be protected where they meet an identified need and the buildings are considered suitable for their use. Furthermore it states that the loss of a facility will only be considered if it can be demonstrated that there is no longer a need for the facility within the local community and the building is no longer suitable or the facility is being adequately re-provided elsewhere in the borough.
- 6.5 The proposal seeks to retain the existing A4 use and keep the public house operational so there will be no loss of pub. However in planning terms, the smoking area or garden could be considered an integral part of the pub, as well as the floorspace lost to the new residential entrance proposed. Concerns raised by some objectors relate to the loss of the pub and its long term viability. Officers have therefore assessed this planning application against Policy DM8, due to the reduction in floorspace of the pub and the reduction in size of its garden/smoking area, which may in turn impact of the viability of the pub performing its community infrastructure function.
- 6.6 As the applicant is providing a replacement smoking area, officers are of the view that there would not be a material loss of community infrastructure in this case. The existing smoking area is a temporary structure and is not an historic feature nor is it considered to be the main attraction or function of the pub. Whilst the proposed smoking area is smaller, it is not wholly diminished. In response to objections, the applicant has increased the proposed size from 11sqm to 20sqm, which given the site constraints, is satisfactory.
- 6.7 An outdoor area is a functional auxiliary space that only acts to supplement the public house facility. Customers can still avail of a reasonably sized outdoor amenity space for smoking and socialising and are therefore not profoundly disadvantaged as a result of the proposal.
- 6.8 The pub is not an Asset of Community Value (ACV), nor is it on the Council's list of pending applications. A recent application for ACV status was refused. The pub

is therefore not currently protected by the relevant provisions of the Localism Act (2011) as amended.

- 6.9 Notwithstanding the above, officers consider that any building on the garden could affect the viability of the premises. It is therefore considered reasonable, in order to retain the pub use and its community infrastructure function, to remove the Permitted Development rights by way of a condition attached to this decision so as to prohibit the conversion of the pub into any other use. This condition is considered to meet the six tests for conditions outlined in Paragraph 206 of the NPPF, which states that conditions must be: necessary; relevant to planning and to the development to be permitted; enforceable; precise; and reasonable in all other aspects.
- 6.10 Applying such a condition is necessary to make the development acceptable in planning terms as it safeguards community infrastructure in line with MDD Policy DM8. It is relevant because 382 objections were received, many of which concerned the potential loss of pub due to it no longer being viable. The condition would be enforced by Council officers. It is precise in its direction not to permit any other use. It is also reasonable considering it is a late 19th century public house in the historic Spitalfields area. Retaining the A4 use is not thought to be an unjustifiable or disproportionate burden on the applicant, considering the spirit of the Localism Act 2011 and the measures to protect public houses.

Heritage and Design

Statutory Duty

- 6.11 The Court of Appeal's decision in *Barnwell Manor Energy Limited v East Northamptonshire District Council* [2014] is of relevance to this application. This clarified that where a decision maker finds that a proposed development would harm the character or appearance of a conservation area, it must give that harm considerable importance and weight and very special public benefits should be required to outweigh that harm

National Planning Policy Framework ("NPPF"),

- 6.12 Section 12 of the NPPF headed "Conserving and enhancing the historic environment" contains guidance in consideration of development proposals and their effect on this historic environment
- 6.13 Paragraph 131 of the NPPF states that in determining planning applications local planning authorities need to take into account:
- the desirability of sustaining and enhancing the significance of heritage assets and putting them to viable uses consistent with their conservation;
 - the positive contribution that conservation of the heritage assets can make to sustainable communities including their economic vitality; and
 - the desirability of new development making a positive contribution to local character and distinctiveness.
- 6.14 Paragraphs 132-135 require local authorities when assessing the effects of development on a heritage asset, to give weight to an asset's conservation in

proportion to its significance. Heritage assets includedesignated heritage assets such as the Wentworth Street Conservation Area

- 6.15 Paragraph 132 provides that when considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset's conservation. It emphasises that the weight given should be proportionate to the asset's significance, and that clear and convincing justification will be required for loss and harm to heritage assets.
- 6.16 Paragraphs 133 and 134 address the balancing of harm to designated heritage assets against public benefits. If a balancing exercise is necessary, considerable weight and importance should be applied to the statutory duty under section 72 of the Planning (Listed Buildings and Conservation Areas) Act 1990 (as amended) where it arises.
- 6.17 Proposals that would result in substantial harm or total loss of significance should be refused, unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss (paragraph 133). The Planning Practice Guidance tells us that the test of whether a proposal causes substantial harm is very high and will often not arise. The Court has ruled in *Bedford BC v Secretary of State for Communities and Local Government* [2013] that such harm is that which would have such a serious impact that its significance was either altogether or very much reduced..
- 6.18 Where less than substantial harm arises, this harm should be weighed against the public benefits of a proposal, including its retention in its optimum viable use (paragraph 134).
- 6.19 Paragraph 137 requires local planning authorities to treat favourably those proposals that enhance or better reveal the significance of Conservation Areas and the setting of heritage assets.
- 6.20 Paragraph 138 acknowledges that not all aspect of a Conservation Area will necessarily contribute to its significance. This allows some flexibility for sustainable development to take place in or near Conservation Areas, without causing harm to the overall heritage significance.

Strategic and Local Planning Policy

- 6.21 Policy 7.8 of the London Plan seeks to record, maintain and protect the city's heritage assets in order to utilise their potential within the community. It requires that developments which have an effect on heritage assets and their settings conserve their significance, by being sympathetic to their form, scale, materials and architectural details.
- 6.22 Policies DM23 and DM24 of the Managing Development Document seek to ensure that the development is sensitive to the local character and environment and provides for safe, secure and permeable environment. Additionally, DM27 seeks for development to protect and enhance the Borough's heritage assets, their setting and their significant as key elements of developing the sense of place of the borough's distinctive places.

Assessment of Heritage Impacts

- 6.23 The following are considered to be the main heritage issues relating to this planning application:
- the significance of the Wentworth Street Conservation Area;
 - the contribution (if any) the current setting makes to the significance of the Wentworth Street Conservation Area;
 - the effects the proposed development will have on the significance of the Wentworth Street Conservation Area;
 - the scale of any harm caused by the development to the Wentworth Street Conservation Area and are there any public benefits generated to outweigh that harm
 - the acceptability of the proposed development in heritage terms
- 6.24 The Wentworth Street Conservation Area Character Appraisal and Management Guidelines (2007) describes the area's character, broadly dividing it into two character areas – west of Toynbee Street and the area to the east around Commercial Street. According to the Guidelines map, the site can be placed more to the east area, which is characterised by mid to late Victorian commercial buildings of 4-5 storeys along the road, containing shops and warehouses with a variety of well-detailed elements and polychromatic brickwork. Overall, there are offices, small shops, and a large amount of residential accommodation in the area. There is no open space apart from the Petticoat Lane market. The scale of buildings rises from 3-4 storeys in the west to 4-5 storeys in the east. The urban blocks are small with fine grain architecture.
- 6.25 The application site (12-14 Toynbee Street) makes an important contribution to the historic character of the Conservation Area, namely in the form of the late 19th century public house building. The Guideline document refers to this period as being critical in the development of the area and the pub is therefore a key architectural and cultural link to the past. The document also refers to there being some gap sites and inappropriate buildings that have a very small impact on the quality of the Conservation Area. It makes reference to 'dead frontages in the area with potential to be brought back into use by small scale business and residential uses' (p13). The Duke of Wellington pub garden occupies such a gap site. Whilst it does not significantly harm the integrity of the Conservation Area, its dead frontage does not make a positive contribution to the area's character. It breaks up the traditional building line and diverts visual attention from the street's historic roots. Its redevelopment would therefore both mend and reinforce the fine grain, 19th century street pattern that the Conservation Area seeks to safeguard.
- 6.26 The proposal involves two elements.
- (j) Three storey infill extension
- 6.27 The extension will be built on the existing smoking area, with a replacement outside amenity space (20 sqm) provided in the northwest corner of the site.
- 6.28 The new apartment building's shape is a simple uniform box design and is proportionate to the existing row of buildings on Toynbee Street and is actually lower than most surrounding buildings, which are up to 4 storeys in height. It is not considered to have an overbearing effect on neighbouring properties or alter the street character or cause harm to the setting of the Wentworth Street Conservation

Area because it is in line with the shape and height of buildings set out in the Wentworth Street Conservation Area Character Appraisal and Management Guidelines outlined in paragraph 6.25.

- 6.29 The proposed materials include a light sandstone cladding with black metal cladding for ground floor façade. Timber strip cladding will interspersed with the front windows and recessed balconies. The roof will be flat parapet. The rear façade will be the same as the front but with glazed, louvered balconies. These have been deemed acceptable for the Conservation Area as they are not in contradiction of the Wentworth Street management guidelines and are not visible from Toynbee Street. The rear 3 balconies will feature 1.8m high opaque directional louvres, which would not be out of character with the modern building design and would not be visible from Toynbee Street.
- 6.30 Similar to the approved mixed-use scheme (ref. PA/11/02305) opposite the site at 11-31 Toynbee Street, the three-storey development would improve the appearance of the street scene by hardening its edges and maintaining a building line that better corresponds to the street's history. Toynbee Street is currently dilapidated in parts and needs repair which is provided by the proposed modern development and refurbishment. The proposal, by juxtaposing a well-proportioned, modern building with the restoration of a Victorian pub would create a more dynamic, 'lived-in' street frontage, providing a greater sense of security for local residents and a more definitive sense of place.
- 6.31 The height and mass of the new building would correspond with the general street character and would actually be low in height comparative to adjacent terraced dwellings which, similar to Carter House, are as high as four storeys –

(ii) Roof extension and alterations to public house

- 6.32 Three new dormer windows are being proposed as part of a new mansard extension on the north-facing upper roof slope. Although highly visible from front street level, this roof extension is considered acceptable as it is subservient to the host building and does not compromise the character of the Victorian era pub. Windows have been designed to be proportionate to those in the existing mansard below, in consultation with the LBTH Conservation Officer. The existing ridge line and mansard feature are being retained.
- 6.33 An existing chimney in the NW corner of the roof is being reduced to second floor level. Whilst this is not ideal, the chimney in question is the least visible and makes little contribution to the overall character of the building. Its reduction in height would not harm the Conservation Area. It is recognised that these works will enable the refurbishment of the upper floors of this building, prolonging the life of the building and providing a long-lasting residential use.
- 6.34 The proposed materials include London stock brickwork as existing, mansard slate as existing, period timber frame windows and doors to match existing. These materials and the proposed roof extension are also considered acceptable for the building and the Conservation Area.

The proposed development has been carefully considered with relation to local and national policy. The proposal generally accords with policy 6.9 of the London Plan and policies DM23, DM24 and DM27 of the Managing Development Document 2013 and the Government guidance in Section 12 of the NPPF.

Standard of Accommodation

- 6.35 London Plan Policy 3.5, LBTH Core Strategy Policy SP02 and Managing Development Document (MDD) Policy DM4 seek to ensure that all new housing is appropriately sized, high-quality and well-designed. Specific standards are provided by the Mayor of London Housing Supplementary Planning Guidance.
- 6.36 The proposal is for 4 x 1 bed units and 1 x studio apartment. Although this is not fully in accordance with MDD Policy DM4, the site is considerably constrained and in this instance, the Council support the current layout and room configuration as proposed. Family accommodation is considered to be less compatible with a pub use than smaller units. The constraints of converting the existing upper floors of the existing pub building and integrating with the new block is such that the design layout lends itself to smaller dwellings.
- 6.37 The 1 bed units are in excess of 50sqm and the studio unit exceeds 37sqm, thus meeting the minimum space standards as set out in the London Housing Design Guidance, Policy DM4 of the MDD (2013) and the National Space Standards set out in the NPPG. The proposal also offers the correct private amenity spaces for each unit, except the studio which is not required to have outdoor space provision. All units meet the minimum standards required (5sqm private balcony and 1500mm minimum width) and are therefore policy compliant. Floor to ceiling heights are at least 2.5m.
- 6.38 The daylight amenity for each habitable space has been assessed using the Average Daylight Factor (ADF) following the methodology of the British Research Establishment (BRE) guidance. Officers agree with the findings of the submitted report, which concludes that internal daylighting is in line with this guidance.
- 6.39 In terms of outlook of the proposed flats, the distance from the east facing windows to Carter House is approximately 9m. However the affected units in both the proposed development and Carter House are dual aspect, hence on balance, the outlook from these units is considered acceptable.
- 6.40 The proposed standard of accommodation is therefore considered to be acceptable and in line with London Plan policy 3.5, Policy SP02 of the Core Strategy and policy DM4 of the Managing Development Document 2013.

Neighbour Amenity

Loss of daylight/sunlight

- 6.41 Whilst the daylight levels would remain unchanged, the ground, 1st and 2nd floor residential apartments at Carter House (2 no. windows per unit) would suffer a minor loss of morning sunlight as these bedroom windows face eastwards and the proposed new building would remove light to the apartments on these three floors. However, in the applicant's daylight/sunlight report, it is noted that these rooms are dual aspect and so the loss of daylight/sunlight to Carter House would not be an unacceptable loss.
- 6.42 Vertical Sky Component (VSC) is the calculation most readily adopted in daylight assessment of existing properties, as the principles of calculation can be established by relating the location of any particular window to the existing and proposed, built environment. DM25 of the MDD and SP10 of the CS seek to ensure

that existing and potential neighbouring dwellings are safeguarded from an unacceptable material deterioration of sunlight and daylight conditions. For calculating daylight to neighbouring properties, affected by a proposed development, the 2011 BRE guidance emphasises the VSC assessment as the primary method of assessment.

- 6.43 The VSC is a quantified measurement of the amount of skylight falling on a vertical wall or window. The BRE handbook suggests a window should retain at least 27% VSC or retain at least 80% of the pre-development VSC value.
- 6.44 The VSC for each bedroom window is between 21% and 36% with minimal change from existing conditions, thereby meeting BRE standards.
- 6.45 A mosque building/community centre is situated immediately to the south of the site. As there are no windows on the building's northern elevation, there would be no impact on its daylight/sunlight intake.

Overlooking

- 6.46 The distance between the proposed units and Carter House is well below the 18m minimum that the MDD policy DM25 seeks (approximately 9m). However, the Council recognises that this is an infill development within the Central Activities Zone. The 18m minimum distance is guidance only, which needs to be balanced against the other merits of the application. The affected windows at Carter House are secondary bedroom windows, and the windows in question to the proposed development are high level (ie, designed to avoid direct overlooking). The applicant revised the rear elevation design to provide greater mitigation against the mutual overlooking of Carter House residents and future occupants of the proposed development. Two balconies were also reconfigured to the front of the development, thereby limiting the impact on privacy to Carter House. The three balconies that remain at the rear will feature translucent glass louvres, which are directional and will limit overlooking, thereby protecting the privacy of residents. These will be at a height of 1.8m.

Noise

- 6.47 The residents of this area are already subject to noise emitting from the outdoor seating area. The proposed building is likely to lessen this impact by reducing the size of the current area and limiting the amount of customers that can be there at any one time. There will be new noise impacts arising from this development as the proposed apartments will also be subject to noise from the amenity area. However, the apartments will be constructed to entertainment venue standards and will be insulated above and beyond the insulation standards for apartment buildings. This sound-proofing will be secured through a pre-commencement condition attached to this decision. It should also be noted that the proposed development is located within Spitalfields, an area of central London that is subject to an intense mix of land uses, with noise from such pub smoking areas not being uncommon.
- 6.48 The applicant provided a noise impact assessment report, which concluded that conventional noise insulation can be provided as part of construction works.
- 6.49 An appropriate condition will be attached to this decision to limit the use of the garden to ensure it closes at 10pm and no outdoor amplified music will be permitted at any time, further reducing any potential noise impact.

Other Issues

Highways

- 6.50 The proposed development is car-free (secured via a condition attached to the decision notice) and involves the creation of a new pedestrian entrance at the front. Cycle parking (4 no. spaces) have been provided in the plans and, following a revised layout to ensure separation from waste storage, are accessible, secure and convenient to use, in accordance with MDD Policy DM22. Access to the flats will be from Toynbee Street and an outdoor corridor/steps will lead to each flat entrance.

Refuse

- 6.51 Refuse is proposed to be stored in the front utility area of the main access, where it is collected from Toynbee Street. The applicant has provided adequate separation between the bin and cycle storage.

7 Human Rights Considerations

- 7.1 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:-

- 7.2 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 Conventions rights are likely to relevant including:

- Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the 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's interest (Convention Article 8); and
- Peaceful enjoyment of possession (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 competing interests of the individual and of the community as a whole"

- 7.3 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.

- 7.4 Members need to satisfy themselves that the measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general

disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.

- 7.5 Both public and private interests are to be taken into account in the exercise of the Council's planning authority's power and duties. Any interference with a Convention right must be necessary and proportionate.
- 7.6 Members must, therefore, carefully consider the balance to be struck between individual rights and the wider public interest.
- 7.7 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.
- 7.8 In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified.

8 Equalities

- 8.1 When deciding whether or not to proceed with the project, the Council must have due regard to the need to eliminate unlawful conduct under the Equality Act 2010, the need to advance equality of opportunity and the need to foster good relations between persons who share a protected characteristic and those who don't (the public sector duty). Some form of equality analysis will be required which is proportionate to proposed projects and their potential impacts.
- 8.2 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.
- 8.3 With regard to age, disability, gender reassignment, pregnancy and maternity, race, religion or belief, sex and sexual orientation there are no identified equality considerations.

9 Local Finance Considerations

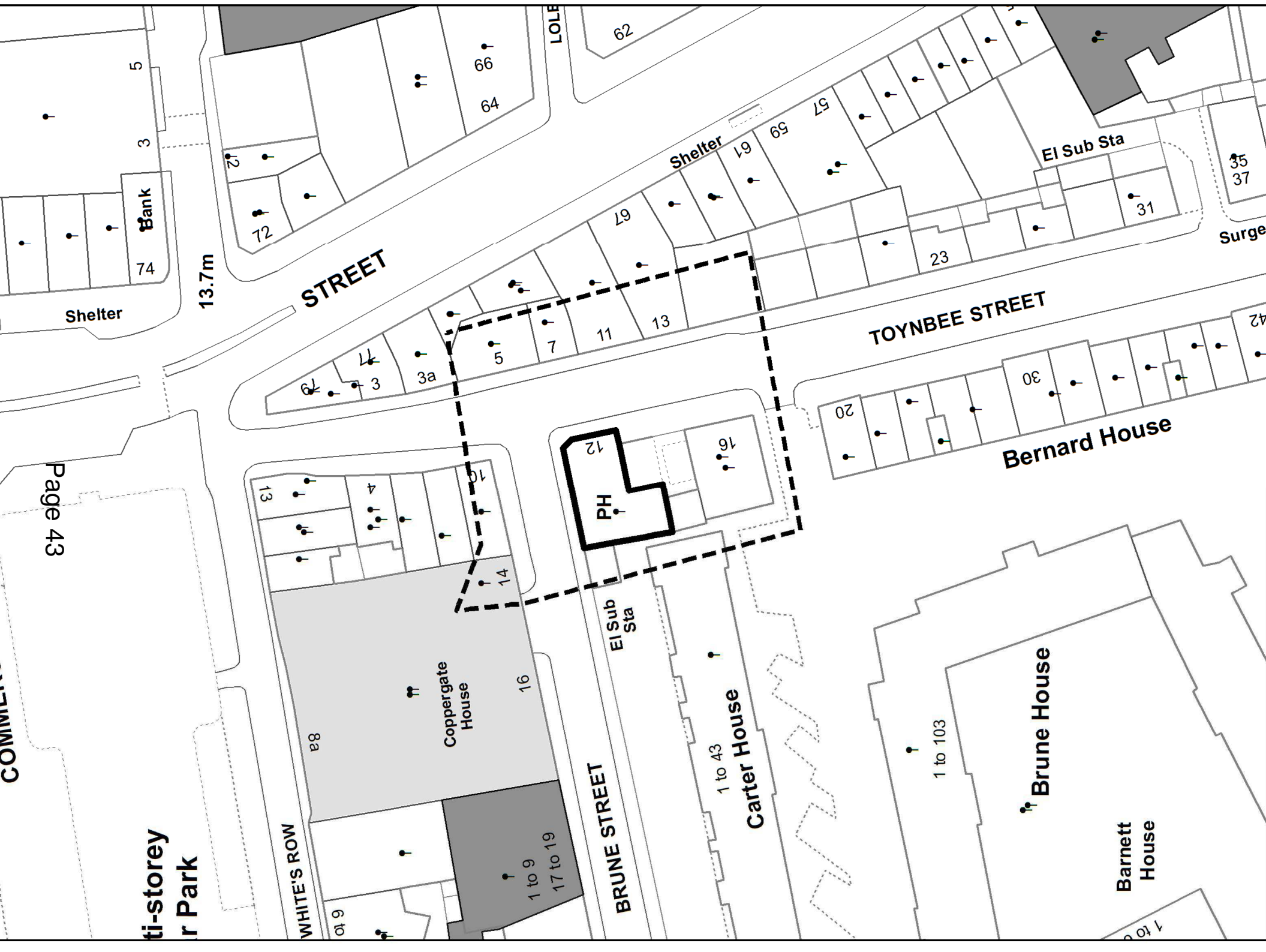
- 9.1 This application is subject to the Borough's Community Infrastructure Levy (CIL), which came in to force for applications determined from 1st April 2015. This is a standard charge, based on the net new floorspace of the proposed development, the level of which is set in accordance with the Council's adopted CIL charging schedule.
- 9.2 The estimated Borough CIL contribution for this development is **£54,000.00**. This is payable on commencement of the development, and the amount will be confirmed at that stage by the LBTH Infrastructure Planning Team.
- 9.3 The LBTH Borough CIL secures infrastructure contributions from development and can be spent by the Council on those infrastructure types set out in the Council's Regulation 123 list.

- 9.4 Members are reminded that the London Mayoral CIL will be payable on this scheme. The likely CIL payment associated with this development would be **£9,450.00**

10 Conclusion

- 10.1 On balance, the proposed development is acceptable and complies with policy. The proposal is not without its shortcomings in terms of layout but the applicant has addressed these as much as it is possible on a site of this size. The conditions attached to this decision seek to rectify these issues.
- 10.2 There will be no loss of pub and the provision of outdoor pub amenity space is reasonable and in accordance with MDD Policy DM8.
- 10.3 The bulk and scale are in keeping with surrounding buildings (many of the terraced properties are at least 4 storeys in height) and do not harm the integrity or the setting of the Wentworth Street Conservation Area.
- 10.4 The proposed mix of units, layout and the allocated private amenity space are deemed to be appropriate and in accordance with the London Plan 2011 and London Housing Design Guide, LBTH Core Strategy and MDD Policies DM01, DM03, DM08, DM22, DM24, DM25 and DM27.
- 10.5 Taking into consideration the following: Central Activities Zone location; the current housing shortage in the borough; recent historic evidence of dilapidation/vacant sites in the area; recently approved planning application ref PA/11/02305; and the need to safeguard the 19th century public house building from decay, any impacts on neighbouring properties and residents are not considered significant enough to warrant a refusal in this case.
- 10.6 Although there would be some minor loss of daylight/sunlight to residents of Carter House, the proposal would not appear incongruous or overbearing, relative to the surrounding buildings. There is already a degree of overshadowing and mutual overlooking of residences as building heights vary widely. By infilling a gap in the existing building line, the proposal would visually enhance the street scene and improve public safety. It would also ensure more intensified mixed use activity at this location in accordance with LBTH Core Strategy SP03 and MDD Policy DM25
- 10.7 All other relevant policies and considerations have been taken into account. Planning permission should be **approved** for the reasons set out in RECOMMENDATION section of this report.

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COMMENTS

Multi-storey
r Park



 Planning Application Site Boundary

 Locally Listed Buildings

 Land Parcel Address

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LONDON BOROUGH OF TOWER HAMLETS

DEVELOPMENT COMMITTEE

8th July 2015

UPDATE REPORT OF HEAD OF PLANNING AND BUILDING CONTROL

INDEX

Agenda item no	Reference no	Location	Proposal / Title
8.2	PA/14/03376	12-14 Toynbee Street E1 7NE	Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor.
8.3	PA/14/03667	Land at rear of 459 Roman Road	Construction of mews house to the rear of existing shop/residential building.

Agenda Item number: 8.2
Reference number: PA/14/03376
Location: 12-14 Toynbee Street E1 7NE
Proposal: Demolition of existing structures on land adjacent to Duke of Wellington public house and creation of a total of 5 x residential units (C3 use). Replacement outdoor area to be reconfigured to the rear of the site. External alterations to the public house to include dormer and mansard roof extensions and rear extension to first and second floors of building, retaining existing ridge line and mansard roof. Retention of A4 use (Drinking Establishments) on ground floor

1.0 ADDITIONAL REPRESENTATIONS

1.1 Seven additional written objections were received based on

- i. Loss of pub
- ii. Loss of garden
- iii. Not in keeping with the Conservation Area

1.2 An online petition has since been registered at Change.org and this has received approximately 500 signatures to date (as of 8th July).

Officer Comments

1.3 Majority of the points raised have already been addressed in the previous main report.

2.0 AMENDMENT TO PARAGRAPH 6.5 IN THE MAIN REPORT

2.1 This paragraph has been amended to reflect the fact that the applicant is increasing the ground floorspace of the pub. This should now read as follows:

6.5 The proposal seeks to retain the existing A4 use, extend the ground floorspace of the pub and keep the pub operational so there will be no loss of pub. However in planning terms, the smoking area or garden could be considered an integral part of the pub. Concerns raised by some objectors relate to the loss of the current pub garden and the long term viability of the public house. Officers have therefore assessed this planning application against Policy DM8, due to the reduction in size of its garden/smoking area, which may in turn impact of the viability of the pub performing its community infrastructure function.

3.0 RECOMMENDATION

3.1 Officers' original recommendation to GRANT planning permission remains unchanged.

Agenda Item 7

Committee: Development	Date: 6 th August 2015	Classification: Unrestricted	Agenda Item No:
Report of: Corporate Director Development and Renewal		Title: Planning Applications for Decision	
Originating Officer: Owen Whalley		Ref No: See reports attached for each item	
		Ward(s): See reports attached for each item	

1. INTRODUCTION

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

2. FURTHER INFORMATION

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

3. ADVICE OF 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.

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

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

- 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 the relevant Agenda Item.

5. RECOMMENDATION

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

Agenda Item 7.1

Committee: Development	Date: 6 th August 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Director of Development and Renewal	Title: Applications for Planning Permission
Case Officer: Shahara Ali-Hempstead	Ref No: PA/14/03660
	Ward: Bow East

1. APPLICATION DETAILS

Location: 219-221 Bow Road and 27-31 Payne Road, Bow, E3 2SJ

Existing Use: Vacant. Previously light industry, warehouse and a church.

Proposal: Demolition of existing buildings and erection of four blocks of four, five and six storeys to provide 89 dwellings together with ancillary parking and landscaping.

Drawings and documents: List of Plans:

PL 001, PL 002, PL 003, PL 004, PL 005, PL 006, PL 007,	PL_100 Rev B PL_101 Rev A, PL_102 Rev A, PL_103 Rev A, PL_104 Rev A, PL_105 Rev A, PL_106 Rev A, PL_107, PL_120 Rev A, PL_121 Rev A, PL_200 Rev A, PL_201 Rev A, PL_202 Rev A, PL_203 Rev A, PL_204 Rev A, PL_205 Rev A, PL_206 Rev A, PL_400 Rev A, PL_401 Rev A, PL_402 Rev A, PL_403 Rev A
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Documents:

3302 July 2015 Rev J (Summary Schedule of Accommodation)

Design And Access Statement December 2014

Daylight and Sunlight Report dated 19 December 2014

Flood Risk Statement, Report Ref. No S751-02 dated

December 2014
 Transport Assessment Report Ref. S751-01a dated December 2014
 Planning Statement prepared by Phase 2 Planning, Ref: Ref. C14072 dated December 2014
 Design Statement (Landscape) Ref:L0301 R01 B, dated November 2014
 Heritage Statement prepared by Heritage Collective, Ref: 14/1362 dated December 2014
 Archaeological Desk-Based Assessment, prepared by Heritage Collective Ref: 14/1362 dated December 2014
 Air Quality Assessment dated December 2014
 Code for Sustainable Homes Pre-Assessment Report Ref 22685.001 dated 18 December 2014
 Energy Strategy Report Ref 22685.001, dated 3 December 2014
 Arboricultural Impact Assessment, prepared by PJC Consultancy LTD Ref No: PJC/3569/14, dated 11 December 2014
 Construction Management Plan Ref. S751-03a dated December 2014
 Geo-environmental Desk Study, Prepared by Jomas Associates Ltd Ref P8760J438 dated May 2014
 Framework Travel Plan Ref S751-04A dated December 2014
 Noise Assessment dated 01 December 2014
 Phase 1 Habitat Survey, BREEAM Assessment, CFSH Assessment dated July 2014
 Servicing Management Plan, REF. S751-05A dated December 2014

Applicant: 219-221 Bow Road LLP and 27-31 Payne Road LLP

Ownership: 219-221 Bow Road LLP and 27-31 Payne Road LLP & Wayne Harris

Historic Building: Nos. 199 & 223 Bow Road adjoining Grade II listed St Mary Bow Church Grade II* listed

Conservation Area: Fairfield Road

2. EXECUTIVE SUMMARY

- 2.1 This report considers the particular circumstances of this application against the development plan policies in the London Plan 2015, Tower Hamlets Core Strategy 2010, the Council's Managing Development Document 2013, the National Planning Policy Framework (NPPF) and the National Planning Practice Guidance (NPPG).
- 2.2 The application is for full planning permission to demolish the existing buildings on the site and to construct four new residential blocks between four and six storeys to provide 89 units. The proposals comprises three parts: Bow Road frontage (Block A), a courtyard pavilion (Block B) and a rear 'L' shaped block (Blocks C and D) fronting Grove Hall Park and Memorial Gardens.

- 2.3 The proposal involves the redevelopment of 'brownfield land' with the loss of employment floor space to create a residential development. This is considered acceptable in policy terms, given the size, location, accessibility and condition of the existing accommodation.
- 2.4 The development would be focussed around a central courtyard accommodating a play area for under-5 year olds and small urban gardens for the ground floor flats. All upper floor flats would have access to private balconies.
- 2.5 The scheme would provide a policy compliant mix of one, two, three and four bedroom homes with 35% affordable housing including intermediate housing.
- 2.6 There would be a policy complaint mix of 9 ground floor wheelchair accessible or wheelchair adaptable units:
- Block A – 1 x 4 bedroom 7 person (wheelchair accessible)
 - Block B – 1 x 3 bedroom 5 person) (wheelchair accessible)
 - Block C and D – 1 x 3 bedroom & 1 x 1 bedroom 2 person wheelchair accessible)
 - Block C and D – 2 x 3 bedroom 5 person; 2 x 2 bedroom 4 person and 1 x 2 bedroom 3 person (wheelchair adaptable)
- 2.7 This report explains that the proposal is considered acceptable in terms of height, scale, bulk, design and appearance, and would deliver good quality private and affordable homes in a sustainable location.
- 2.8 The proposed demolition of existing buildings would not harm the character and appearance of the Fairfield Road Conservation Area. The proposed residential redevelopment would preserve the character and appearance of the conservation area and the setting of the grade II listed building No. 223 Bow Road adjacent to the site.
- 2.9 The design has been developed to ensure the setting of the Grade II* listed St Mary Bow Church and the grade II listed Nos. 199 and 223 Bow Road would also be preserved. There would be no harm to any designated heritage asset and the proposed buildings would be in keeping with the scale of adjacent development currently under construction and other buildings within the local area.
- 2.10 The density of the scheme would be satisfactory and not result in significantly adverse impacts associated with overdevelopment with no undue detrimental impacts upon the amenities of the neighbouring occupants in terms of loss of light, overshadowing, privacy or increased sense of enclosure. The high quality of accommodation provided, with internal and external amenity spaces standards met, would provide an acceptable living environment for the future occupiers.
- 2.11 Transport matters including parking, access and servicing arrangements are acceptable.
- 2.12 Existing trees within Grove Hall Park would be protected during the proposed demolition and construction works.

3. RECOMMENDATION

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

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

Financial Obligations:

- (a) A contribution of £28,788 towards providing employment & training skills for local residents.
- (b) A monitoring fee in line with the emerging Planning Obligations SPD £3,000 contribution towards monitoring and implementation (based on a charge of £500 per principle clause).
- (c) £25,200 contribution to carbon offset projects (subject to status of the Planning and Energy Act 2008).

Total: £56,988

Non-Financial Obligations:

- (a) 35% affordable housing by habitable room comprising:
 - 65% affordable rent by habitable room
 - 35% intermediate by habitable room
- (b) Employment and Training Strategy including access to employment (20% Local Procurement and 20% Local Labour in Construction).
- (c) On-street parking permit free.
- (d) The funding of replacement trees in Grove Hall Park and Memorial Gardens should, within 5 years from the implementation of planning permission, any trees within Grove Hall Park and Memorial Gardens need to be removed, die or are seriously damaged as a result of the development).
- (e) Any other planning obligation(s) considered necessary by the Corporate Director Development Renewal.

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

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

B The following conditions and informatives:

3.4 Compliance conditions

- 1 Time limit 3 years.
- 2 Compliance with plans.
- 3 10% of the housing measured by habitable rooms shall either be wheelchair accessible or wheelchair adaptable and shall include 1 x 4 bed family rented unit that shall be wheelchair accessible.
- 4 Compliance with Energy and Sustainability Strategy.
- 5 Communal amenity space and child space accessible to all future residents of the development.
- 6 Cycle parking/storage to be provided and maintained
- 7 Refuse and recycling facilities to be implemented in accordance with approved plans.
- 8 Acoustic glazing and ventilation to comply with the submitted Air Quality and Noise Assessment.
- 9 Hours of construction (08.00 until 17.00 Monday to Friday; 08.00 until 13:00 Saturday. No work on Sundays or Bank Holidays).
- 10 Impact piling limited to 10.00 am to 4.00 pm.

3.5 Prior to commencement

- 11 Demolition/Construction Environmental Management & Construction Logistics Plan.
- 12 Ground contamination – investigation and remediation.
- 13 Piling Method Statement.

3.6 Prior to above ground works commencement

- 14 Drainage details and mitigation of surface water run-off.
- 15 Details and samples of all facing materials including windows, balustrades and screening.
- 16 Section 278 agreement with Transport for London.
- 17 Gates across the vehicular access from Bow Road shall be remote controlled.
- 18 Landscaping to include boundary treatment, brown and green roofs, ecological enhancement/mitigation measures and external lighting.
- 19 Trees within Grove Hall Park to be protected during demolition and construction works in accordance with the submitted Arboricultural Impact Assessment.
- 20 Details of the specifications of the four wheelchair accessible units and the five wheelchair adaptable units.
- 21 Details of external plant and ventilation, including noise attenuation measures.
- 22 Historic England - Archaeological investigation.
- 23 Secured by Design accreditation.
- 24 Details of rooftop PV array.
- 25 Details of play equipment within the under 5s play space.

3.7 Prior to Occupation

- 26 Delivery, Servicing Plan and Waste Management Plan including refuse storage and collection.

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

3.9 Informatives

1. Associated section 106 agreement
2. Compliance with Building Regulations
3. Thames Water main crosses the site
4. TfL contact details

3.10 That, if within 3 months of the date of this committee the legal agreement referred to in paragraph 3.1 has not been completed, the Corporate Director Development & Renewal is delegated power to refuse planning permission.

4. SITE AND SURROUNDINGS

4.1 The application site comprises 0.33 hectare located within Bow East ward. It lies within the Fairfield Road Conservation Area designated in September 1989. It is situated to the north of Bow Road and south of the Council's Grove Hall Park and Memorial Gardens. To the east lie Payne Road and the A12 / Blackwall Tunnel Approach road. To the west are industrial warehouses and the grade II listed No. 199 Bow Road. Further south west in the centre of Bow Road is St Mary Bow Church and grounds grade II* listed. Adjoining the site to the east, No. 223 Bow

Road is also grade II listed. Nos. 199 and 223 Bow Road are late 17th or early 18th century and are relatively rare survivals of pre-Victorian Bow.

- 4.2 The site is occupied a series of 20th century 2 storey factory buildings in mixed use and character surrounding by areas of hard standing. The buildings comprise 3,575 sq. m. last used for commercial purposes comprising light industry, warehousing, religious purposes and some residential but are now vacant.
- 4.3 The buildings on site are a mix of brick construction with flat and pitched corrugated asbestos roofs, generally in very poor condition and detract from the character and appearance of Bow Road and the Fairfield Road Conservation Area. The frontage building contains an undercroft opening beneath the first floor that provides vehicular access into a court yard that serves the buildings at the rear. There are some 20 car parking spaces on site.
- 4.4 The site is a deep narrow broadly rectangular plot extending to the boundaries with Grove Hall Park and Memorial Gardens. Most surrounding plots are similarly deep with narrow frontages set close together.
- 4.5 Grove Hall Park is the most significant public open space in the area comprising a small part of the original preserved gardens of the Grove Hall Estate. The southern part of the gardens encompasses the grade II listed Bryant and May War Memorial, a slender white stone shaft topped with a cross. The gardens are setback behind Grove Hall Court, separating Ridgdale Street's back of terrace from the gardens and aligned with large mature trees subject to Tree Preservation Orders. Other trees in the Park and the Memorial Garden are protected by the conservation area designation.
- 4.6 The character of the surrounding area is mixed commercial industrial and creative arts (the Bow Arts Trust studios) fronting Bow Road interspersed by residential uses. Recent taller developments at Payne Road dominate this eastern part of Bow Road consisting of high rise residential buildings overlooking the A12 and the Bow fly-over.
- 4.7 Bow Road is a major route in and out of east and central London and part of the Transport for London Road Network (TLRN). The site has very good public transport accessibility PTAL 5. Bow Church DLR station is approximately 350 m. away and Bow Road Underground station is about 650 m. to the west. Bus routes Nos. 25, 8, D6, D8 and 309 serve the area travelling towards Central London, Stratford, Hackney and Fish Island.
- 4.4 There are no statutory or locally listed buildings within the site. The site lies within an archaeological priority area. The site is located within Flood Zone 1 i.e. 1 in 1,000 year annual probability of flooding (0.1%) and suitable for all types of development. The Council's records show that the site could suffer from ground contamination.

5. MATERIAL PLANNING HISTORY

- 5.1 The application site has no material planning history.
- 5.2 This eastern end of Bow Road has seen recent considerable change through regeneration and redevelopment that started with the development of the former Payne Road studios and the Bow Baptist church site to the east, which comprise 9 to 18 storey residential blocks.

- 5.3 The adjoining site to the west Nos. 213-217 Bow Road is currently being developed to provide residential apartments in two buildings including a 6-storey building on the Bow Road frontage (PA/13/00863). An application for a minor material amendment to alter the access and site's boundary with the subject application is currently being considered by officers at the time writing (PA/15/001594)
- 5.4 Nos. 207-211 Bow Road has recently been redeveloped by two 5-storey blocks of residential apartments (PA/11/03461).
- 5.5 The application proposals were subject to pre-application advice in 2014 (Ref. PF/14/00107). The scheme proposed demolition of the existing buildings and construction of a mix-used development comprising 102 residential units and approximately 250 sq. m. of commercial floor space. A 2nd reiteration proposed 100% residential. Key advice provided was:
- The scheme would provide opportunities for housing in accordance with policies SP02 of the Core Strategy 2010 and policy DM4 of the Managing Development Document 2013.
 - The site does not fall within a designated employment or local industrial area. Whilst the replacement of employment floor space by a 100% residential scheme could be supported in principle, Policy DM15 'Local job creation and investment' of the Managing Development Document 2013 will need to be addressed.
 - The scheme would benefit from the residential elements being orientated towards the Grove Hall Park. The redevelopment should also be dictated by the approved proposal on the adjacent site at Nos. 213-217 Bow Road. The scheme should include a well thought area for communal amenity space.
 - Core Strategy Policy SP02 seeks to create mixed and balanced communities and requires 35%-50% of homes on sites providing 10 new residential units or more to be affordable.
 - There should be mixed tenures that accord with Managing Development Document Policy DM3 'Delivering homes.'
 - Residential space standards should accord with the Mayor's Housing Design Guide, the minimum dwelling standards in Table 3.3 in the London Plan and Table 3 in the Council's Managing Development Document.
 - 10% of all units should be designed to be wheelchair accessible or easily adaptable for wheelchair users.
 - All units should have adequate provision of amenity space with child play space provided.
 - The scheme will be assessed against on whether it would preserve or enhance the character of the Conservation Area, impact on the setting of the listed buildings, impact upon protected trees and archaeology.
 - The proposals should not result in the loss of privacy, or enable an unreasonable level of overlooking or sense of enclosure with good sunlight and daylight maintained to adjoining property. Developments should not result in an unacceptable level of noise or vibration.
 - A development which promote sustainable modes of transport and reduces the need to travel by car would be supported. There should be no adverse impact on safety and road network capacity. Car and cycle parking standards should be met.
 - Policies on climate change and refuse storage should also be met.
- 5.6 The applicant was advised that the site was considered an acceptable location for a residential development and a formal submission was invited.

6. PROPOSAL

- 6.1 Application is made for full planning permission to demolish the existing warehouse buildings on the site and to construct four new residential blocks ranging between 4 and 6 storeys. The development comprises three parts: A Bow Road frontage (Block A – part 3 part 6 storey), a courtyard pavilion (Block B - 5 storey) and a rear 'L' shaped block facing Grove Hall Park and Memorial Gardens (Block C part 4 part 5 storeys and Block D - 6 storey).
- 6.2 The application is effectively Phase 2 of the permitted redevelopment scheme for Nos. 213-217 Bow Road adjoining to the west that is currently on site to provide two residential buildings including a 6-storey building on the Bow Road frontage (PA/13/00863). A current application Ref. PA/15/00594 seeks amendments to PA/13/00863) to link the common service areas with the current proposal at Nos. 219-221 Bow Road. This would provide a comprehensive solution to access, landscaping, refuse storage and amenity provision with a single vehicular access to Bow Road at Nos. 219-221 beneath Block A that would over sail at 1st floor level.

Figure 1 – Proposed Bow Road elevation



- 6.3 The scheme for Nos. 219-221 initially proposed 93 dwellings but has been revised to 89 residential units comprising:
- 40 x 1 bedroom
 - 31 x 2 bedroom
 - 17 x 3 bedroom
 - 1 x 4 bedroom
- 6.4 Block A has been amended to propose a part 3, part 5 and part 6 storey frontage to Bow Road. Block C has been amended to a part 3 and part 4 storey alongside Grove Hall Park and Block D has been reduced by a storey on the park side with a setback part 5 and part 6 storey block now proposed.

- 6.5 Calculated by habitable rooms 35% of the housing would be affordable.
- 6.6 There would be 9 ground floor wheelchair or wheelchair adaptable units:
- Block A – 1 x 4 bedroom 7 person (wheelchair accessible)
 - Block B – 1 x 3 bedroom 5 person)(wheelchair accessible)
 - Block C and D – 1 x 3 bedroom & 1 x 1 bedroom 2 person (wheelchair accessible)
 - Block C and D – 2 x 3 bedroom 5 person; 2 x 2 bedroom 4 person and 1 x 2 bedroom 3 person (wheelchair adaptable).
- 6.7 A new gated vehicular access would be provided from Bow Road with an existing loading bay relocated. Two parking spaces would be provided on site both reserved for disabled motorists.
- 6.8 All trees and shrubs within Grove Hall Park would be retained and protected during construction.

Figure 2 - Proposed view from the Memorial Garden



7. LEGAL AND POLICY FRAMEWORK

- 7.1 The Council in determining the planning application has the following main statutory duties to perform:
- To determine the application in accordance with the development plan unless other material considerations indicate otherwise (Section 38(6) of the Planning and Compulsory Purchase Act 2004);
 - In considering whether to grant planning permission for development which affects a listed building or its setting, to have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses. (Section 66 (1) Planning (Listed Building and Conservation Areas) Act 1990);

- When considering the application special attention shall be paid to the desirability of preserving or enhancing the character or appearance of the Fairfield Road Conservation Area (Section 72 (1) Planning (Listed Buildings and Conservation Areas) Act 1990).

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

National Planning Policy

7.3 National Planning Policy Framework (NPPF)
National Planning Practice Guidance (NPPG)

7.4 The London Plan 2015

- 2.9 Inner London
- 3.1 Ensuring equal life chances for all
- 3.3 Increasing Housing Supply
- 3.4 Optimising Housing Potential
- 3.5 Quality and Design of Housing Developments
- 3.6 Children and young people’s play and informal recreation facilities
- 3.8 Housing Choice
- 3.9 Mixed and Balanced Community
- 3.10 Definition of Affordable Housing
- 3.11 Affordable Housing Targets
- 3.14 Existing Housing
- 3.16 Protection and enhancement of social infrastructure
- 5.2 Minimising Carbon Dioxide Emissions
- 5.3 Sustainable Design and Construction
- 5.7 Renewable Energy
- 5.8 Innovative energy technologies
- 5.11 Green Roofs and Development Site Environs
- 5.13 Sustainable drainage
- 5.17 Waste capacity
- 5.18 Construction, excavation and demolition waste
- 5.21 Contaminated land
- 6.3 Assessing Effects of Development on Transport Capacity
- 6.9 Cycling
- 6.10 Walking
- 6.11 Smoothing Traffic Flow and Tackling Congestion
- 6.13 Parking
- 7.1 Building London’s Neighbourhoods and Communities
- 7.2 An Inclusive Environment
- 7.3 Designing out crime
- 7.4 Local Character
- 7.5 Public Realm
- 7.6 Architecture
- 7.8 Heritage and Archaeology
- 7.18 Protecting Local Open Space
- 7.19 Biodiversity and access to nature
- 8.2 Planning Obligations
- 8.3 Community Infrastructure Levy

7.5 Tower Hamlets Core Strategy 2010

SP02 Urban Living for Everyone
SP03 Creating Healthy and Liveable Neighbourhoods
SP05 Dealing with waste
SP06 Employment uses
SP08 Making connected Places
SP09 Creating Attractive and Safe Streets and Spaces
SP10 Creating Distinct and Durable Places
SP11 Working towards a Zero Carbon Borough
SP12 Delivering place making
SP13 Planning Obligations

7.6 Tower Hamlets Managing Development Document 2013

DM0 Delivering sustainable development
DM3 Delivering Homes
DM4 Housing standards and amenity space
DM11 Living Buildings and biodiversity
DM13 Sustainable Drainage
DM14 Managing Waste
DM15 Local Job Creation and Investment
DM20 Supporting a Sustainable transport network
DM21 Sustainable transportation of freight
DM22 Parking
DM23 Streets and the public realm
DM24 Place sensitive design
DM25 Amenity
DM27 Heritage and the built environment
DM29 Achieving a zero-carbon borough and addressing climate change
DM30 Contaminated Land

7.7 Supplementary Planning Documents

Revised draft *Planning Obligations Supplementary Planning Document* Version for public consultation April 2015
Fairfield Road Conservation Area Appraisal & Management Guidelines
The Mayor's Housing SPG 2012

7.8 Tower Hamlets Community Plan objectives

- A Great Place to Live
- A Prosperous Community
- A Safe and Supportive Community
- A Healthy Community

8. CONSULTATION

8.1 The following organisations and council departments have been consulted. Responses are summarised below. Full representations are available to view in the case file. The views of officers within the Directorate of Development and Renewal are generally expressed within Section 9 of this report 'Material planning

considerations' but where appropriate comment is made in response to specific issues raised by the consultation process.

- 8.2 Following the receipt of revised plans, reducing building heights and the number of residential units from 93 to 89, re-consultation has been undertaken.

External

Transport for London

- 8.3 No objection in principle. Details of the dimensions and construction of the vehicular access to Bow Road should be secured and agreed in a section 278 agreement with TfL. No objection to the gate across the vehicular access provided a 7.5 m. clearance is provided between the footway kerb and the gate with the gate remote controlled by users to minimise vehicle waiting for it to be opened. Content with the position of the loading bay on Bow Road.

(Officer comment: Appropriate conditions are recommended).

Primary Health Care Trust

- 8.4 No comments received.

Historic England Archaeology

- 8.5 Recommends a condition to secure an archaeological investigation.

(Officer comment: An appropriate condition is recommended).

Canal and River Trust

- 8.6 No objection. The development is set away 150 m. from the canal and towpath and with the A12 acting as a physical barrier is unlikely to have any direct impact on the canal.

Sport England

- 8.7 Does not wish to comment.

London Legacy Development Corporation

- 8.8 No comments received.

Environment Agency

- 8.9 No comments received.

London Fire and Emergency Planning Authority

- 8.10 No comments received.

Thames Water

- 8.11 No objection regarding water infrastructure. Recommends a condition requiring a Piling Method Statement and informatives regarding water pressure and a water main that crosses the site.

(Officer comment: An appropriate condition and informative are recommended).

Internal

Housing Development & Private Sector

- 8.12 The breakdown of the revised scheme is - Affordable Rent:- 28% one bed units against the Core Strategy target of 30%, 33% two bed units against target of 25%, 33% of three bed units against target of 30% and 6% four bed units against the target of 15%.
- 8.13 Intermediate - 20% one bed units against Core Strategy target of 25%, 50% two bed units against target of 50% and 30% three bed units against the target of 25%.
- 8.14 Private units:- 54% of one bed units against our Core Strategy target of 50%, 33% of two bed units against target of 30%, 13% of three bed units against the target of 20%.
- 8.15 The scheme would achieve 35% affordable housing by habitable rooms which is policy compliant. Of the affordable housing 39% would be affordable rented 3-bed plus family housing, which is slightly below the policy requirement of 45%.

Biodiversity Officer

- 8.16 The application site consists entirely of buildings and hard surfaces. The buildings are not suitable for roosting bats. There would be no adverse impacts on biodiversity.
- 8.17 MDD Policy DM11 requires major development to provide biodiversity enhancements in line with the Local Biodiversity Action Plan (LBAP). Several features within the proposals could contribute to LBAP targets, but insufficient information is currently available to be certain that these would contribute.
- 8.18 The Proposed Roof Plan indicates green roofs throughout the development. Biodiverse roofs would contribute to the LBAP target for new open mosaic habitats. The proposed landscaping includes tree planting and other vegetation at ground level. If there is a good diversity of nectar-rich flowers within the landscaping, it would contribute to the LBAP target to provide more forage for pollinating insects. A contributor to LBAP targets would be to provide bat boxes and nest boxes for birds.
- 8.19 Recommends a planning condition requiring full details of biodiversity enhancements to be submitted for written approval.

(Officer comment: Appropriate conditions are recommended).

Arboricultural Tree Officer - Parks and Open Spaces

- 8.20 The Arboricultural Method Statement is acceptable and the protection measures for trees in Grove Hall Park and Memorial Gardens are adequate. Concerned that the 2

main trees affected, T5 (Birch) and T8 (Ash), are quite large and close to the façade of Block C, and this might lead to pressure from residents for their pruning. T5 (Birch) is a mature specimen, and any pruning required for access for demolition and building may significantly reduce the tree's life. The tree however is nearing the end of its life and is not considered a reason to oppose the development.

- 8.21 Requests two replacement trees are planted further inside Grove Hall Park and Memorial Gardens to replace lost amenity from the current and any future pruning of T5 & T8.

(Officer comment: A head of agreement is recommended to require the funding of replacement trees in Grove Hall Park and Memorial Gardens should, within 5 years from the implementation of planning permission, any trees within Grove Hall Park and Memorial Gardens need to be removed, die or are seriously damaged as a result of the development).

Energy Efficiency Unit

- 8.22 MDD Policy DM29 sets a target of a minimum 50% reduction in CO2 emissions above the Building Regulations 2010 through the cumulative steps of the Energy Hierarchy. From April 2014, the Council has applied a 45% carbon reduction target beyond Building Regulations Part L 2013 as this is deemed to be broadly equivalent to the 50 per cent target beyond Part L of the Building Regulations 2010.

- 8.23 The proposals follow the energy hierarchy and seek to minimise CO2 emissions through the implementation of energy efficiency measures, high efficiency gas boilers and a PV array (57.5kWp).

- 8.24 Based on the current proposals there is a shortfall to MDD Policy DM29 requirements of 14% - approximately 14 tonnes of regulated CO2.

- 8.25 The Revised Draft Planning Obligations SPD public consultation version includes a mechanism for any shortfall in CO2 to be offset by a cash in lieu contribution for sustainability projects. This accords with London Plan 2015 Policy 5.2 (E) which states:

'...carbon dioxide reduction targets should be met on-site. Where it is clearly demonstrated that the specific targets cannot be fully achieved on-site, any shortfall may be provided off-site or through a cash in lieu contribution to the relevant borough to be ring fenced to secure delivery of carbon dioxide savings elsewhere.'

- 8.26 It is proposed the shortfall in CO2 emission reductions be offset through cash in lieu payment. The current identified cost for a tonne of CO2 is £1,800 recommended by the GLA Sustainable Design and Construction SPG 2014 and the GLA Planning Energy Assessment Guidance April 2014.

- 8.27 It is recommended that £25,200 is sought for carbon offset projects as identified in the submitted Energy Statement:

(Officer comment: A head of agreement is recommended to secure the requested sum).

Transportation & Highways

- 8.28 Car Parking. The site scores PTAL 5 'Very Good.' The on-site car parking proposed comprises two spaces for Blue Badge holders in line with the borough's transport objectives. Any permission should be subject to a section 106 agreement prohibiting occupiers of the new residential units from obtaining on-street parking permits.
- 8.29 Cycle Parking. The proposed cycle parking is acceptable exceeding MDD requirements and would be distributed across the site, ensuring it is conveniently located for residents of the various blocks.
- 8.30 TfL matters. As highway authority for Bow Road, TfL have jurisdiction over the proposals to consolidate vehicle access points and servicing. TfL will advise on their suitability and what section 278 arrangements should be secured by any condition. Highways recommend the following conditions are applied to any permission:
- A Construction Management Plan to be approved prior to commencement of development
 - A Travel Plan approved prior to occupation of development
 - A Deliveries and Servicing Plan approved prior to occupation of development

(Officer comment: Appropriate conditions are recommended save it is not considered that a Travel Plan is necessary the development relying on public transport and bicycles).

Environmental Health - Noise and vibration

- 8.31 No comments received.

Environmental Health - Smell / Pollution

- 8.32 No comments received.

Environmental Health - Contaminated Land

- 8.33 Recommends condition to secure a site investigation to identify ground contamination and subsequent mitigation measures.

(Officer comment: Appropriate conditions are recommended).

Waste Management

- 8.34 Collection points, capacity requirements and vehicle swept paths are satisfactory.

Crime Prevention Officer

- 8.35 The vehicle entrance at Bow Road should not be set back beyond the building line. Any gate at this location needs to be full height, leaving no gaps. All boundary walls/railings need to be of 2.4 m. in height, especially at the rear. Metal non-climbable railings would be the best option. Basement is impossible to offer suitable comments as there is no detail on the drawing. The access to and from the basement space needs to be of PAS24 (doors) standard with suitable access/control for residents only.

(Officer comment: The front gates would be flush with the building line circa 7.5 m.

from Bow Road. This 7.5 m. clearance would satisfactorily accommodate any waiting car/transit van without encroaching onto Bow Road. There is no intention or need for setback gates. All boundary walls/railings would be 2.4 m. high. A brick wall is proposed for the boundary to Grove Hall Park and the Memorial Gardens. On design and privacy grounds this is considered preferable to railings. A condition is recommended to require the development to achieve Secured by Design accreditation).

Directorate of Children's Services

8.36 No comments received.

Communities, Localities & Culture – Strategy

8.37 Requested financial contributions based on the potential population and increased impact on local services. These requests were made prior to the introduction of the Council's CIL on 1st April and are no longer relevant as they fall within the borough's Regulation 123 list.

Enterprise & Employment

8.38 There is no submitted evidence that justifies the loss of commercial floor space. MDD Policy DM15 'Local job creation and investment' recommends that the applicant should provide marketing evidence which demonstrates that the site was marketed for a period no less than 12 months:

(Officer comment: This matter is addressed in 'Material Planning Considerations' below)

Corporate Access Officer

8.39 No comments received.

Education Development Team

8.40 No comments received.

Idea Stores

8.41 No comments received.

9. LOCAL REPRESENTATION

9.1 The application has been publicised by site notices and advertisement in East End Life. 380 neighbouring properties were individually notified and invited to comment. The Fairfield Conservation Area Residents Association was also consulted. All neighbours and the Fairfield Conservation Area Residents Association have been re-consulted on the revised plans.

No of individual responses:	9	Objecting:	8	Supporting:	1
No of petitions received:	1	(124 signatures objecting)			

9.2 The letter in support says the proposal would contribute to the vision for the area.

9.3 Material grounds of objection by neighbours may be summarised as:

- Warehouse character and working community lost
- Overlooking of adjoining property and the park with tranquillity lost
- Loss of natural light to adjoining property
- Excessive density and height
- Resultant increase in anti-social behaviour – noise, smells, traffic and pollution
- Increased pressure on local services – doctors, dentists, hospitals and schools
- Exacerbation of local parking difficulties
- Increased pressure on public transport
- Loss of light to the garden of Bow Baptist Church, 1 Payne Road

9.4 Commenting on the initial plans, a ward councillor says the proposal has made real efforts to improve the relationship with adjoining sites but is concerned that:

- 22% affordable housing is not policy compliant.
- Conflict with conservation area policy. Stacked heights bordering the park not in keeping and disruptive to the Memorial. Over massed and over dense.

(Officer comment: The affordable housing offer has been increased to 35% and the height of the proposed buildings reduced).

9.5 Following assessment of the application by officers and representations from the local community, revised plans have been submitted making the following amendments to the proposals:

- Block A has been amended to present a part 3, part 5 and part 6 street frontage.
- Block C has been amended to a part 3 and part 4 storey alongside Grove Hall Park. Block D has been reduced by a storey on the park side. A setback part 5 and part 6 storey block is now proposed with metal clad fin detailing removed.
- Number of residential units reduced to 89.

Fairfield Conservation Area Residents Association

9.6 Representations by the Fairfield Conservation Area Residents Association supported the petition that had been received. This has been updated to comment on the revised plans and the petition resubmitted with additional signatures. The Association's objections may be summarised as follows:

- The development will not preserve or enhance the character of the Fairfield Road Conservation Area.
- The cumulative effect of high-rise five storey development alongside that under construction is not sympathetic with the existing character of the area. The development should be limited to the height of the existing buildings or three storeys where it borders the park.
- The proposed distance from the boundary of between 1.5 metres and 2 metres is inappropriate as a buffer between the building and public park.
- Existing homes in Ridgdale Street/Baldock Street are set back from the park by private gardens or paved areas. No other properties bordering the park have balconies.
- Material risk that noise levels in the park caused by music/parties from the development will increase, destroying its tranquillity.
- The privacy of current residents will be significantly diminished by the amount

of windows and balconies that will allow a direct view into their properties-including the bedrooms and gardens.

- The buildings should be set back further from the boundary to provide a natural buffer between the development and the park in terms of noise/overlooking.
- The brick wall /fence separating the park from the development should be increased from a proposed median 1.8 m. height to 2.4 m.
- Residents of the development should not be able to directly access Grove Hall Park or the Memorial Gardens.
- The use of a loading bay on Bow Road is insufficient given the planned upgrade to Cycle Superhighway Route 2 and increased demand for buses. The developer should provide larger and more open vehicle site access for deliveries, not just refuse collection.
- The development should be subject to car-free arrangements.

10. MATERIAL PLANNING CONSIDERATIONS

10.1 The main planning issues raised by this application are:

1. Sustainable development
2. Land use
3. Heritage assets & design and appearance
4. Housing
5. Quality of accommodation & impact on neighbours
7. Highways & Transport
8. Energy
9. Contaminated Land
10. Flood Risk
11. Biodiversity & Ecology
12. Community Infrastructure Levy and Planning Obligations
13. Other Local Finance Considerations
14. Human Rights
15. Equality Act

Sustainable development

10.2 Local planning authorities must have regard to the National Planning Policy Framework (NPPF) and the related guidance in the National Planning Practice Guidance (NPPG) that set out the Government's objectives for planning and development management.

10.3 The NPPF Ministerial foreword and paragraph 6 say that the purpose of planning is to help achieve sustainable development. Sustainable is said to mean "*ensuring that better lives for ourselves don't mean worse lives for future generations.*" Development means growth. We must house a rising population. The foreword provides key themes to assess whether proposals would result in sustainable or unsustainable development:

- *"Sustainable development is about change for the better.*
- *Our historic environment can better be cherished if their spirit of place thrives, rather than withers.*
- *Our standards of design can be so much higher. We are a nation renowned worldwide for creative excellence, yet, at home, confidence in development itself has been eroded by the too frequent experience of mediocrity.*

- *Sustainable development is about positive growth – making economic, environmental and social progress for this and future generations.”*

10.4 The NPPF Introduction page 2 paragraph 7 says achieving sustainable development involves three dimensions:

- an economic role – contributing to building a strong, responsive and competitive economy, by ensuring that sufficient land of the right type is available in the right places.
- a social role – supporting strong, vibrant and healthy communities, by creating a high quality built environment.
- an environmental role – contributing to protecting and enhancing our natural, built and historic environment.

10.5 NPPF Paragraph 8 emphasises that these roles should not be undertaken in isolation, being mutually dependent. Economic growth can secure higher social and environmental standards, and well-designed buildings and places can improve the lives of people and communities. To achieve sustainable development, economic, social and environmental gains should be sought jointly and simultaneously with the planning system playing an active role in guiding development to sustainable solutions.

10.6 Pursuing sustainable development involves seeking positive improvements in the quality of the built, natural and historic environment, as well as in people’s quality of life. This includes widening the choice of high quality homes. (NPPF Paragraph 9).

10.7 Officers consider that when assessed against NPPF criteria the proposed scheme amounts to sustainable development. This is reflected in the Core Strategy 2010 at Strategic Objective SO3 ‘Achieving wider sustainability.’ This emphasises the achievement of environmental, social and economic development, realised through well-designed neighbourhoods, high quality housing, and access to employment, open space, shops and services.

Land Use

10.8 The proposed 89 residential units would involve the demolition buildings previously used as:

Offices	545 sq. m.
Light industry	2,176 sq. m.
Storage and distribution	607 sq. m.
Religion	448 sq. m.
Total	3,576 sq. m.

10.9 Other than the Fairfield Road Conservation Area, the site is unallocated on the Local Plan Adopted Policies Map. A cycle super highway is shown running along Bow Road.

10.10 NPPF Paragraph 22 (Economy) seeks to encourage alternative use of non-viable employment sites and states:

“Planning policies should avoid the long term protection of sites allocated for employment use where there is no reasonable prospect of a site being used for that purpose. Land allocations should be regularly reviewed. Where there is no

reasonable prospect of a site being used for the allocated employment use, applications for alternative uses of land or buildings should be treated on their merits having regard to market signals and the relative need for different land uses to support sustainable local communities.”

- 10.11 NPPF Paragraph 49 requires housing applications to be considered in the context of the presumption in favour of sustainable development. The development would provide much needed housing in a sustainable location that meets the relevant NPPF tests.
- 10.12 NPPF Paragraph 51 says local planning authorities should normally approve planning applications for change to residential use and any associated development from commercial buildings (currently in the B use class) where there is an identified need for additional housing in that area, provided that there are not strong economic reasons why such development would be inappropriate.
- 10.13 MDD Policy DM15 ‘Local Job Creation and Investment’ supports the upgrading and redevelopment of employment sites. This should not result in the loss of active and viable employment uses.
- 10.14 The site is previously developed land within a highly accessible/sustainable location (PTAL 5) and its redevelopment for housing would comply with London Plan Policy 3.3 ‘Increasing Housing Supply’ and help the Council meet its increased housing targets set by the London Plan.
- 10.15 The applicant has undertaken a commercial market overview of the site addressing its suitability for continued employment use in terms of location, financial viability, accessibility, size, and condition and market status. The report also reviews the site’s suitability for commercial redevelopment and advises:
- The existing buildings are poor quality in poor repair and are beyond their economic life expectancy.
 - The long and narrow access to a small rear yard provides inadequate service areas lacking access for HGV’s.
 - The constrained loading area resulted in parking on the TLRN which caused conflict and constrained day to day operations of the site. Difficulties would be exacerbated by the proposed cycle super highway.
 - The surrounding area is predominantly residential and continued employment use could cause loss of amenity to adjoining residents.
- 10.16 Officers concur with the applicant’s analysis. The area is reverting to a residential location following a number recently permitted housing schemes and this is the last remaining commercial site in the immediate area. The buildings and location are considered unsuitable for continued commercial use or redevelopment for such purposes.
- 10.17 Core Strategy place making policy SP12 identifies a vision for Bow and Bromley-by-Bow to be *“A prosperous neighbourhood set against the River Lea and Park and transformed A12”*. The vision for Bow places priority on improving local connections which would in turn help *“to create a place for families which reflects the quieter, more community based side of urban living.”*
- 10.18 No objection in principle is raised to redevelopment of the application site for residential purposes.

Heritage assets & design and appearance

- 10.19 Statutory tests for the assessment of planning applications affecting listed buildings or conservation areas are found in Sections 66(1) and 72(1) of the Planning (Listed Building and Conservation Areas) Act 1990. Section 66(1) relates to applications that affect a listed building or its setting. It requires the decision maker to: *“have special regard to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses”*. Section 72(1) relates to applications affecting a conservation area. It states that *“special attention shall be paid to the desirability of preserving or enhancing the character or appearance of that area”*.
- 10.20 The NPPF is the key policy document at national level relevant to the assessment of individual planning applications. Chapters relevant to heritage, design and appearance are Chapter 7 ‘Requiring good design’ and Chapter 12 ‘Conserving and Enhancing the Historic Environment.’
- 10.21 Chapter 7 explains that the Government attaches great importance to the design of the built environment. It advises that it is important to plan for high quality and inclusive design, including individual buildings, public and private spaces and wider area development schemes. Planning decisions should not seek to impose architectural styles, stifle innovation or originality, but it is proper to promote or reinforce local distinctiveness. Local planning authorities should have local design review arrangements in place, and applicants should evolve designs that take account of the views of the community.
- 10.22 Chapter 12 relates to the implications of a development for the historic environment and provides assessment principles. It also identifies the way in which any impacts should be considered, and how they should be balanced with the benefits of a scheme.
- 10.23 In this case, the relevant designated heritage assets are the Fairfield Road Conservation Area, the adjoining grade II listed 2-storey No. 223 Bow Road and the nearby St Mary Bow Church Grade II* listed, the grade II Bryant and May War Memorial and No. 199 Bow Road. None of the buildings on the site are considered to make a positive contribution to the Conservation Area and no objection is seen to their demolition.
- 10.24 NPPF Paragraph 132 confirms that in considering the impact of a proposed development on the significance of a designated heritage asset, great weight should be given to the asset’s conservation. Any harm or loss should require clear and convincing justification.
- 10.25 The effect of a development on heritage assets may be positive, neutral or harmful. Where a decision maker considers there is harm, the NPPF requires decision makers to distinguish between ‘Substantial’ or ‘Less than substantial’ harm. If a proposal will lead to substantial harm to or total loss of significance of a designated heritage asset, the approach set out in paragraph 133 is to be followed, namely that consent should be refused unless it can be demonstrated that the substantial harm or loss is necessary to achieve substantial public benefits that outweigh that harm or loss.
- 10.26 In order to amount to substantial harm to the significance of a heritage asset, there would have to be such a serious impact on the significance of the asset that its significance was either vitiated altogether or very much reduced.

10.27 Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, the approach set out in paragraph 134 should be followed:

“Where a development proposal will lead to less than substantial harm to the significance of a designated heritage asset, this harm should be weighed against the public benefits of the proposal, including securing its optimum viable use.”

10.28 The London Plan 2015 addresses the principles of good design, and in appropriate locations, preserving or enhancing heritage assets. This includes Policy 7.4 ‘Local Character’ which requires development to have regard to the pattern and grain of existing streets and spaces, make a positive contribution to the character of a place to influence the future character of an area, and be informed by the surrounding historic environment. Policies 7.5 and 7.6 emphasise the provision of high quality public realm and architecture. Policy 7.8 requires development affecting heritage assets and their settings to conserve their significance by being sympathetic to their form, scale, materials and architectural detail.

10.29 Tower Hamlets Core Strategy SP10 seeks to protect and enhance the borough’s heritage assets and to preserve or enhance the wider built heritage and historic environment. SP12 promotes a borough of well-designed places that retain and respect the features that contribute to each places heritage, character and local distinctiveness.

10.30 These principles are followed in the MDD and Policy DM24 ‘Place-sensitive design’ requires developments to be built to the highest quality standards, incorporating principles of good design. This includes being sensitive to and enhancing the local character and setting of a development, and use of high quality materials.

10.31 MDD Policy DM27 deals with ‘Heritage and the Historic Environment.’ Policy DM27 1 provides that:

“Development will be required to protect and enhance the borough’s heritage assets, their setting and their significance”

10.32 Policy DM27 2 says that development within a heritage asset should not adversely impact on character, fabric or identity. Scale, form, details and materials should be appropriate to the local context and should better reveal the significance of the heritage asset.

10.33 The Fairfield Road Conservation Area was designated in September 1989. The Council’s Fairfield Road Conservation Area and Management Guidelines identify the area as bounded by Fairfield Road and the railway to the west, Tredegar Road to the north, Wick Lane to the east and Bow Road to the south. The area contains locally listed terraces and features the historic and architectural merits of the Grade II listed Bryant and May complex and Bow Garage. It contains half the historic centre of Bromley by Bow and most importantly provides the setting for the Parish Church, St Mary Bow Church (Ecclesiastical grade B listed). Nos. 199 and 223 Bow Road (the latter adjoining the application site) are grade II listed circa late 17th or early 18th century and rare survivals of pre-Victorian Bow.

10.34 No. 223 Bow Road is 2-storeys in height and 2 bays wide. It has an early 19th century shop front with double hung sashes. The list description notes that it is an ‘interesting survival’. It is of architectural and historical value and survives as a considerably altered 17th century building adapted to incorporate a later shop front.

The settings of Nos. 199 and 223 have changed dramatically through the loss of a substantial amount of Grove Hall Park and the development of the adjoining factories. The setting of No. 223 has been compromised and considerably reduced but, along with No.199 and St Mary's Church forms an important triangle, in historical and architectural terms, along this much altered section of Bow Road.

- 10.35 The prevailing character of the Conservation Area is defined by its mixed character, with a strongly industrial feel bordering the railway and a more typically residential character to the south, east of Fairfield Road. The designated area presents a varied townscape, reflected in the widely differing ages and characteristics of its buildings.
- 10.36 The scale of buildings within the Conservation Area varies, particularly along Bow Road, where its commercial buildings range between 1–7 storeys. Beyond the Bow Road frontage, the rest of the Conservation Area is predominantly low rise, with the exception of the taller scales and larger building footprints of the industrial sites.
- 10.37 Grove Hall Park is the most significant public open space in the designated area. Located off Jebb Street and south of Ridgdale Street, the park is a preserved small part of the original gardens of the Grove Hall Estate. The southern part of the gardens encompasses the Grade II listed Bryant and May War Memorial. The island site of St Mary's Bow Church is enhanced by abundant tree planting circling the church site and enclosed within gothic railings.
- 10.38 The Management Guidelines identify the area as subject to considerable change. New development in and around the Conservation Area must be to an appropriate scale to reflect its character.

Assessment

- 10.39 Policy 3.4 of the London Plan requires development to optimise housing output taking account of local context and public transport capacity and availability. The development would result in a density of 748 habitable rooms per hectare which is a little above the 200 - 700 hrh advocated by the Sustainable residential quality density matrix for areas with PTALs 4-6 at Table 3.2 of the London Plan.
- 10.40 The proposed development is considered a high quality design for its context that draws on influences from both the residential and the industrial / warehouse buildings which characterise the conservation area. Currently the site detracts from the character and appearance of the designated area and does not contribute positively to the setting of the other nearby designated heritage assets.
- 10.41 Returning the site to residential use by a design which reflects both its industrial and residential past is considered a positive change which would re-establish a sense of place and identity along this part of Bow Road.
- 10.42 The scale of the development is considered appropriate to the surroundings. The design and brick facings of the facades would reference surrounding development, including the neighbouring development at Nos. 213-217 Bow Road (currently under construction) and integrate well with the surroundings on Bow Road. Whilst the setting of adjoining No. 223 would be altered with a taller building alongside, it is considered this would not be harmful to the designated heritage asset.
- 10.43 Blocks C and D overlooking Grove Hall Park and the Memorial Gardens would be set back away from the north western park boundary by some 1.5 m. and 2.5 m. to reduce the impact on the green space with varied heights that have been lowered

since the original submission.

- 10.44 The new development would not harm or cause a loss of the significance to the grade II War Memorial. The setting of the Memorial is primarily contained within the remains of Grove Hall Park, from where it is best appreciated, but the general improvements as a result of the development would enhance the wider setting.
- 10.45 The development would enliven this part of Bow Road and as a result would preserve and positively influence the setting of St Mary's Bow Church and draw it back in with its surroundings and help re-establish a visual link between the church and neighbouring development with no resultant harm or loss of significance. The setting of No. 199 Bow Road would also be preserved.
- 10.46 It is considered that the development would result in a substantial improvement to the character and appearance of the Fairfield Road Conservation Area that would be both preserved and enhanced without harm to designated heritage assets.

Housing

- 10.47 Increased housing supply is a fundamental policy objective at local, regional and national levels. A key component of housing supply is the provision of affordable housing. London Plan Policy 3.12 requires that the maximum reasonable amount of affordable housing be sought when negotiating on residential schemes. This should have regard to affordable housing targets, the need to encourage rather than restrain residential development, the size and type of affordable units needed to meet local needs, and site specific circumstances including development viability.
- 10.48 Policy SP02 of the Core Strategy 2010 states that new housing development should provide a mix of unit sizes where appropriate and include a substantial proportion of family dwellings. MDD Policy DM3 'Delivering Homes' promotes housing choice and requires development to provide a balance of family housing (3 beds +) in the social rented, intermediate and private sales components at 45%, 25% and 20% respectively.
- 10.49 Core Strategy Policy SP02 sets out the borough's affordable housing targets that 35-50% of homes should be affordable housing subject to viability. The Local Plan targeted tenure split within the affordable component is 70:30 (affordable rented: intermediate). This is reflected at MDD Policy DM3 which also sets out the requirement for maximising delivery of on-site affordable housing.
- 10.50 The application was initially supported by a financial viability appraisal prepared by BNP Paribas. The results of the analysis indicated that 23% affordable housing could viably be provided on the basis that the Borough CIL would be applicable at the date of grant of permission.
- 10.51 The appraisal was independently assessed by the Council's viability consultants, GVA who concluded that the development could provide up to 50% affordable housing on a habitable room basis.
- 10.52 The application has been subsequently amended by reductions in height of the buildings and alterations to the internal layouts with 89 units now proposed. The revised plans were accompanied with the provision of 35% affordable calculated by habitable rooms broken down as 65% affordable rented and 35% intermediate housing.

10.53 The revised affordable housing provision has again been reviewed by GVA for the Council. GVA conclude that based on achieving a 20% profit of GDV on private units and a 6% profit of GDV on affordable units, the scheme cannot afford to provide any additional affordable housing. The provision of 35% affordable housing by habitable rooms is considered to be the maximum reasonable amount, which is compliant with Core Strategy Policy SP02 and therefore satisfactory.

Figure 3 - Proposed dwelling mix

Unit size	Total units in scheme	affordable housing						market housing		
		Affordable rented			intermediate			private sale		
		scheme units	scheme %	Core Strategy target %	scheme units	scheme %	Core Strategy target %	scheme units	scheme %	Core Strategy target %
studio	0		0%	0%		0%	0%		0%	0%
1 bedroom	40	5	28%	30%	2	20%	25.0%	33	54%	50.0%
2 bedroom	31	6	33%	25%	5	50%	50.0%	20	33%	30.0%
3 bedroom	17	6	33%	30%	3	30%	25%	8	13%	20%
4 bedroom	1	1	6%	15%		0%			0%	
5 bedroom	0		0%	0%		0%			0%	
6 bedroom	0		0%			0%			0%	
TOTAL	89	18	100%	100%	10	100%	100%	61	100%	100%

10.54 The tenure split within the affordable housing would be 65% affordable rent and 35% intermediate measured by habitable rooms. This falls between the Council's Core Strategy target of 70:30 and the London Plan 2015 target of 60:40 and is considered acceptable.

10.55 Core Strategy Policy SP02 and MDD DM3 and the Mayor's Accessible London SPG require that 10% of all units are designed to be wheelchair accessible or easily adaptable for wheelchair users. Policy DM3 advises that this can be measured as 10% of habitable rooms.

10.56 The development would be policy complaint proposing 10% wheelchair or wheelchair adaptable units:

- Block A – 1 x 4 bedroom 7 person (wheelchair accessible)
- Block B – 1 x 3 bedroom 5 person) (wheelchair accessible)
- Block C and D – 1 x 3 bedroom & 1 x 1 bedroom 2 person wheelchair accessible)
- Block C and D – 2 x 3 bedroom 5 person; 2 x 2 bedroom 4 person and 1 x 2 bedroom 3 person (wheelchair adaptable)

Quality of accommodation & impact on neighbours

10.57 London Plan 2015 Policy 3.5 requires housing developments to be of the highest quality internally and externally. Local Plans should incorporate minimum spaces standards that generally conform with Table 3.3. Designs should take account of factors relating to ‘arrival’ at the building and the ‘home as a place of retreat’, with adequately sized rooms and convenient and efficient room layouts. Guidance on these issues is provided by the Mayor’s ‘Housing’ SPG 2012.

Housing standards

10.58 MDD Policy DM4 ‘Housing Standards and Amenity Space’ requires all new developments to meet the internal space standards set out in the document. All the units meet, and in the majority of cases exceed, minimum space standards set out in the London Plan, Policy DM4 of the Council’s MDD and the Mayor’s Housing SPG. Individual room sizes would also meet standards.

Amenity space

10.59 The London Plan and the MDD also require private amenity space to be provided at 5 sq. m. per 2-person dwelling and an extra 1 sq. m. per additional bedroom. Communal amenity space should be provided at a minimum of 50 sq. m. for the first 10 dwellings and 1 sq. m. for every additional unit. Child play space should be provided at 10 sq. m. per child. The proposed flats would all be provided with private amenity space in the form of balconies, which exceed the minimum standard requirements. Policy also requires 592 sq. m of private amenity space compared with 865 sq. m provided (273 sq. m surplus). In addition, a communal amenity space of 133 sq. m. is required compared with 150 sq. m. of provision, which exceeds minimum standards.

10.60 It is estimated that the development with 35% affordable housing would yield 29 children requiring 20 sq. m. of play space on site. The proposal provides 290 sq. m. of play space on site as illustrated by the applicant’s Landscape Strategy.

Figure 4 – Child Yield – Play space

	Total	Under 5 (Pro-Rata)	5 - 10 (Pro-Rata)	11 - 15 (Pro-Rata)
Child Yield	29	13	10	6
Child Play space Policy Requirement (sq. m.)	290	130	100	60

Dual / Single aspect dwellings

10.61 The Mayor’s ‘Housing’ SPG Standard 5.2.1 says developments should avoid single aspect dwellings that are north facing, exposed to noise levels above which significant adverse effects on health and quality of life occur, or contain three or more bedrooms. The SPG adds that: *‘Where possible the provision of dual aspect dwellings should be maximised in a development proposal.’*

10.62 There would be 29 x 1 bedroom and 5 x 2 bedroom single aspect units in the scheme (38%). This is due in part to the site’s narrow width but deep nature. The scheme would be consistent with the form of development at Nos. 207-211 Bow Road, Nos.

213-217 Bow Road and the Payne Road Studios site which each have a proportion of single aspect units.

- 10.63 The Applicant's Air Quality and Noise Assessment demonstrate that all flats would be provided with adequate ventilation. These details are subject to a recommended condition. The SPD states that *'North facing single aspect dwellings should be avoided wherever possible.'* *'North facing'* is defined as an orientation less than 45 degrees either side of due north. 22 of the 34 single aspect units would face northwest onto Grove Hall Park but would be provided with a very positive high quality view and orientation that would enhance the amenity of these units significantly. The remaining units would face the internal communal amenity space which again would be a positive high quality view and orientation enhancing their amenity.
- 10.64 The SPG adds *'Where limited numbers of rooms are required, the frontage is generous, the plan is shallow, and the orientation is favourable, good single aspect one and two bedroom homes are possible.'* There would be 29 x 1 bed and 5 x 2 bed single aspect units. These units all pass internal daylight standards (see below). Principal rooms such as living, dining kitchen and bedrooms would be located adjoining the Grove Hall Park boundary or internal communal amenity space, the frontages of these units are generous and a shallow plan is proposed.
- 10.65 Taking the above matters into consideration, it is considered that the development would be compliant with the Mayor's SPG in terms of aspect.

Sunlight and daylight

- 10.66 Core Strategy Policy SP10 'Creating Distinct and Durable Places' & MDD Policy DM25 'Amenity' require development to protect the amenity of adjoining development and provide satisfactory conditions for future occupants. This includes provision of adequate levels of daylight and sunlight.
- 10.67 The original application was supported by a Daylight and Sunlight Assessment by GL Hearn that assessed the impact of, and conditions within, the proposed development against the guidance provided by the Building Research Establishment (BRE). The BRE Guidebook is accepted by the industry as best practice. The submitted assessment was reviewed for the Council by the BRE that reached the following conclusions on the impact to neighbouring properties:
- Nos. 207-211 Bow Road - minor adverse for one room, but negligible for the remainder.
 - Nos. 213-217 Bow Road - minor adverse.
 - No. 1 Payne Road – minor adverse.
 - Nos. 76-79 Payne Road Blocks C and D – moderate to major adverse, but building C (at Nos. 76-79 Payne Road) stands close to the boundary and is dependent upon light across the application site.
 - Nos. 61-69 Baldock Street – minor adverse for four locations, but largely negligible.
 - Impact on neighbouring open spaces - negligible.
- 10.68 With regard to conditions within the new development the BRE advised:

"We would disagree with GL Hearn's general conclusion that the proposed flats would receive adequate light when assessed specifically against the guidelines in the BRE Report. The BRE Report references minimum values contained in

BS 8206 part 2 for daylight and sunlight and a significant number of proposed habitable rooms do not achieve these minimum values. We counted 71 out of 267 rooms in the table data failing to achieve the recommended minimum average daylight factor. Two rooms were missing from the table data.”

10.69 With regard to sunlight within the rooms within the development the BRE advised:

“Sunlight provision to all windows in the proposed development should have been taken into account rather than just those facing within 90° of due south. We counted 93 main living rooms in the development. Of these, 33 of the 56 living rooms analysed by GL Hearn achieved the recommendations for both annual probable sunlight hours and winter sunlight hours and 23 failed to achieve them. In addition, 36 living rooms with windows solely facing north west or north east which were not analysed would have a reduced expectation of sunlight. One south east facing room was missing from the table data.”

10.70 With regard to the amount of sunlight reaching the amenity spaces within the development the BRE advised:

“Two of the eight proposed amenity spaces analysed achieve the recommended amount of sunlight on 21 March. The other spaces would receive less sunlight, with between 0% and 43% of their respective areas receiving at least two hours of direct sunlight on March 21, compared to the recommended 50%.”

10.71 The position between the two consultants regarding the proposed development's impact on surrounding buildings may be summarised as.

- Five surrounding locations have been assessed and at four locations the majority of rooms, if not all, comply with the BRE daylight and sunlight amenity guidance.
- At Nos. 76-79 Payne Road. Blocks C & D rely on light across the application site and fail the BRE tests. These buildings are “bad neighbours” due to their reliance on light over the application site.
- The living / kitchen / diners in Block C, 76-79 Payne Road, would all maintain daylight distribution to over 69% of their areas as they are dual aspect.
- In Block D, 76-79 Payne Road, the depth of the living / kitchen / diners means they are susceptible to daylight distribution modification but amenity would be maintained within the living areas adjacent to the windows. Conditions in the rooms are adversely affected due to overhanging balconies and already fail BRE guidance receiving VSCs of less than 20%.
- The BRE advises that conditions should be considered against other site constraints, as natural lighting is only one of many factors in site layout design.

10.72 Officers agree that the two blocks at Nos. 76-79 Payne Road are bad neighbours and on balance consider that the degree of harm would not be of sufficient significance to outweigh the benefits of the new housing which the proposals would provide.

10.73 With regard to daylight conditions within the rooms of the development, whilst there are a number of failures against BRE guidelines, the majority of the rooms comply with guidance and are consistent with levels within neighbouring properties in this urban location. Where there are failures, the BRE advises that there may be other factors such as balcony amenity which provide mitigation.

- 10.74 With regard to sunlight conditions within the rooms of the development, the majority of rooms that would not face north would exceed guidelines. The rooms which do not receive the recommended amount of sunlight are generally underneath balconies, which reduce the ability of the window to receive sunlight by blocking off the higher part of the sky. The north-west facing rooms would obviously not receive the recommended amount of sunlight but many would benefit from balcony amenity with good aspect overlooking Grove Hall Park, which could be considered sufficient mitigation.
- 10.75 The overshadowing of the amenity spaces within Nos. 213-217 Bow Road would not alter existing sunlight values. The largest amenity area in front of proposed Blocks C & D would achieve BRE guidelines. The area between Block A and Block B would also be well supplied with sunlight at 100%. Where other outdoor space would be overshadowed, the difficulties arise due to the depth of the plot and the requirement to optimise the amount of development. Nevertheless, although these areas would not be suited for children's play, they would provide a valuable amenity in this urban location.
- 10.76 The reduction in height of the buildings will have improved conditions of natural light throughout much of the development above the original assessments. On balance officers consider the scheme would provide adequate levels of daylight and sunlight consistent with its location.

Privacy

- 10.77 MDD Policy DM25 stipulates that a distance of 18 m. between opposing habitable rooms reduces inter-visibility to a degree acceptable to most people. The proposal would fail to achieve a separation distance of 18 m. to the consented residential blocks adjoining at Nos. 213-217 Bow Road in all locations. There would also be some conflict between stairwells & access corridors vis-a-vis existing buildings in Payne Road and Taylor Place (the former Payne Road Studios). The worst cases would be: Proposed Block B- existing to Nos. 213-217 Bow Road 9.86 m. Block B to Payne Road Studios 13.15 m. and Block D to existing Taylor Place 8.0 m. 15 m.
- 10.78 However, where there would be a shortfall in the recommended separation distance this would be mitigated by the introduction of directional fins in front of windows to direct views away from primary aspect windows of adjacent buildings to provide the desired privacy. Obscured glazing for staircases and secondary aspect windows within the proposal would also avoid any direct overlooking to adjacent habitable rooms. Separation to neighbouring development across the Grove Hall Park in Ridgdale & Baldock Streets would far exceed the separation standard.

Noise and disturbance

- 10.79 MDD Policy DM25 also stipulates that there should not be unacceptable levels of noise or vibration. The developer has undertaken an environmental noise survey at the application site. Daytime and night-time sample noise levels were monitored on 10th & 11th June 2014. The assessment indicates that the windows on the elevations facing Bow Road/Blackwall Tunnel Approach would achieve the required acoustic performance with closed acoustic glazing as specified in the mitigation section of the report. Other façades of Blocks B/D would also require a combination of acoustic and thermal double glazing as specified in the mitigation section of the report. If the occupiers of the proposed dwellings wish to keep windows closed to attenuate external noise levels, an additional means of ventilation (e.g. passive through the wall

ventilation) would be required for those proposed elevations that have unobstructed view of the above mentioned roads. With mitigation, the development would be consistent with Core Strategy Policy SP10 & MDD Policy DM25.

Air quality

- 10.80 London Plan Policy 7.14 'Improving Air Quality' and MDD Policy DM9 'Improving Air Quality' requires major development to submit an Air Quality Assessment demonstrating how it will prevent or reduce associated air pollution during construction or demolition. An assessment of the potential impacts during the construction phase has shown that through good site practice and the implementation of suitable mitigation measures, the impact of dust and PM10 releases could be effectively mitigated with negligible impacts.
- 10.81 Modelling has also been carried out to assess the suitability of the site for residential development and to predict the impact of traffic generated by the proposal on local air quality. The development would result in an overall reduction in traffic on the adjacent road network. The model predicts no change in NO₂ and PM₁₀ concentrations as a result of the proposals and therefore the impact on local air quality would be negligible.
- 10.82 The Assessment predicts annual mean NO₂ concentrations above the objective limit at the facades of some of the blocks and therefore recommends that mechanical ventilation is provided for all residential units where the NO₂ objective is exceeded with air intakes located at roof height to ensure a clean supply of air. On this basis the proposals are considered to satisfy the London Plan and the MD DPD.

Highways & Transport

- 10.83 London Plan policies 6.1, 6.3, 6.9, 6.10, 6.13, Tower Hamlets Core Strategy Policy SP09 and MDD Policies DM20 and DM22 seek to promote sustainable modes of transport by reducing car-parking and improving public transport.
- 10.84 The site scores PTAL 5 'Very Good.'
- 10.85 London Plan and the Council's parking standards are expressed as maximums and do not require car parking unless it can be demonstrated that the poor accessibility of a site justifies provision. This is not the case at Bow Road and the scheme would be 'car free' save two car parking spaces for disabled motorists are proposed on-site to serve two of the 10% wheel chair accessible homes. This level of provision complies with MD DPD policy DM22.
- 10.86 Cycle parking would be provided in accordance with the London Plan Table 6.3 at one space for each 1 & 2 bed dwelling and two spaces for each 3 bed dwelling. This results in a requirement of 113 spaces however 158 cycle spaces are proposed. These would be provided a mixture of stacked spaces and Sheffield stands. The proposal complies with MD DPD policy DM22.
- 10.87 Bow Road is part of the TLRN and TfL raise no objection in principle advising that details of the dimension and construction of the vehicular access to Bow Road should be secured and agreed in a section 278 agreement with TfL. A condition is recommended to secure these arrangements.
- 10.88 Refuse servicing is proposed within the site and vehicle tracking illustrates refuse vehicles could enter and leave the site in forward gear. Refuse stores would be

located underground in a central hard landscaped area. The arrangements would ensure easy access from individual flats, ease of collection/removal off the site with reduced vehicle hardstanding and access required.

Energy

- 10.89 The NPPF encourage developments to incorporate renewable energy and to promote energy efficiency.
- 10.90 London Plan 2015 Chapter 5 deals with London's response to climate change and Policy 5.1 seeks to achieve an overall reduction in carbon dioxide emissions of 60% below 1990 levels by 2025. Policy 5.2 sets out the Mayor's energy hierarchy to:
- Be lean: Use Less Energy
 - Be clean: Supply Energy Efficiently
 - Be Green: Use Renewable Energy
- 10.91 London Plan Policy 5.2 requires major development, both residential and non-domestic, to achieve a minimum improvement in CO2 emissions 40% above Part L of the Building Regulations 2010 in years 2013-2016. From 2016 residential buildings should be zero carbon.
- 10.92 Tower Hamlets Core Strategy Strategic objective SO3 seeks to incorporate the principle of sustainable development including limiting carbon emissions from development, delivering decentralised energy and renewable energy technologies and minimising the use of natural resources. Core Strategy Policy SP11 reiterates the Mayor's CO2 reduction targets and requires all new developments to provide a 20% reduction of carbon dioxide emissions through on-site renewable energy generation.
- 10.93 MDD Policy DM29 reiterates the London Plan targets except it increased the savings target for residential buildings to 50% above Building Regulations 2010 during years 2013-2016. This is now interpreted to mean 45% above Building Regulations 2013.
- 10.94 In March 2015 the Government withdrew the Code for Sustainable Homes and made it clear that any policy relating to energy/carbon reduction should not require anything over the equivalent of defunct CFSH level 4.
- 10.95 In April 2015, the Greater London Authority released new guidance 'Greater London Authority guidance on preparing energy assessments' which says the Mayor will adopt a flat carbon dioxide improvement target beyond Part L 2013 of 35% to both residential and non-residential development.
- 10.96 The applicants submitted energy strategy follows the energy hierarchy and seek to minimise CO2 emissions through the implementation of energy efficiency measures, high efficiency gas boilers and a PV array (57.5kWp).
- 10.97 Based on the current proposals there is a shortfall to MDD Policy DM29 requirements of 14% - approximately 14 tonnes of regulated CO2.
- 10.98 The Council's Planning Obligations SPD includes a mechanism for any shortfall in CO2 to be offset by a cash in lieu contribution for sustainability projects. This complies with London Plan 2015 Policy 5.2 (E) and the applicant has agreed a £25,200 contribution for carbon offset projects.

10.99 On 10th July 2015, the Chancellor of the Exchequer presented to Parliament – *“Fixing the foundations: Creating a more prosperous nation.”* It contains the following statement:

“The government does not intend to proceed with the zero carbon Allowable Solutions carbon offsetting scheme, or the proposed 2016 increase in on-site energy efficiency standards, but will keep energy efficiency standards under review, recognising that existing measures to increase energy efficiency of new buildings should be allowed time to become established.”

10.100 Subsequent to the comments reported in ‘Consultation’ above, the Council’s Energy Efficiency Unit advises that the Chancellor’s announcement is not helpful in clarifying the energy targets the Council can require. The Council’s carbon target was set under the Planning and Energy Act 2008 (Chapter 12 – 1C) which is extant. The Unit is not aware that a date for its repeal has been set, as it was due to be when the changes came into Building Regulations 2016.

10.101 The ability to seek a carbon offset is different to the ‘allowable solutions’ and the requirement for an offsetting contribution accords with London Plan Policy 5.2. It is considered compliant to continue with carbon offsetting, if authorities are allowed to retain their carbon targets. Original advice to secure a carbon offset contribution stands, as the overarching legislation that allows authorities to set targets is still extant. Clarification is being sought from the GLA and the Department for Communities and Local Government to establish when the Planning and Energy Act may be repealed.

Contaminated land

10.102 Due to the former industrial uses of the site the land could be contaminated. Environmental Protection advises that a site investigation is required to identify any contamination and to ensure that any contaminated land is properly treated and made safe before development. A condition requiring a contamination report and associated investigation is recommended in accordance with MDD Policy DM30.

Flood risk

10.103 The NPPF says the susceptibility of land to flooding is a material planning consideration. The Government looks to local planning authorities to apply a risk-based approach to their decisions on development control through a sequential test. This is reflected in London Plan Policy 5.15 ‘Flood Risk Management’ and Core Strategy Policy SP04 5 within ‘Creating a Green and Blue Grid.’

10.104 The Environment Agency Flood Map shows that the site is located in Flood Zone 1 which comprises land assessed as having less than 0.1% (1 in 1000) annual probability of flooding from fluvial or tidal sources i.e. low probability. The submitted Flood Risk Assessment finds that the site has a low probability of flooding from all other potential sources including groundwater and surface water. No representations have been received from the Environment Agency following consultation.

10.105 The NPPG confirms that areas within Flood Zone 1 have no constraints on development other than the need to ensure that the development does not increase run-off from the site to greater than that from the site in its undeveloped or presently developed state. It is not considered such circumstances apply and the development is compliant with national and development plan policy concerning flood risk.

Biodiversity & Ecology

- 10.106 Core Strategy SP04 concerns 'Creating a green and blue grid.' Among the means of achieving this, the policy promotes and supports new development that incorporates measures to green the built environment including green roofs and green terraces whilst ensuring that development protects and enhances areas of biodiversity value.
- 10.107 MDD Policy DM11 addresses 'Living buildings and biodiversity.' Policy DM11-1 requires developments to provide elements of a 'living buildings' which is explained at paragraph 11.2 to mean living roofs, walls, terraces or other building greening techniques. DM11-2 requires existing elements of biodiversity value be retained or replaced by developments.
- 10.108 The application is supported by a Geo-environmental Desk Study that finds the site supports habitats, which are common and widespread, with the site consisting solely of buildings and hard standing. The site is considered to provide negligible ecological value. The proposals would not isolate or fragment any valuable habitat with no habitat loss.
- 10.109 Site inspections found no evidence of protected species including bats in the existing buildings and revealed no suitable features for bats. The site did not support habitats considered suitable to support a range of protected species and the site is therefore not considered to be constrained ecologically.
- 10.110 Enhancements for the site would include soft landscaping, open spaces and green roofs and the redevelopment would not have an effect on the nature conservation value of the site or indeed the wider landscape. It is considered that the planning strategy for these spaces would enhance biodiversity consistent with the development plan. Officers concur.

Community Infrastructure Levy and Planning Obligations

- 10.111 Core Strategy Policy SP13 seeks planning obligations to offset the impacts of the development on local services and infrastructure. The Council's 'Planning Obligations' SPD sets out in more detail how these impacts can be assessed and appropriate mitigation.
- 10.112 NPPF paragraph 204 states that planning obligations should only be sought where they meet the following tests:
- (a) Necessary to make the development acceptable in planning terms;
 - (b) Directly related to the development; and,
 - (c) Fairly and reasonably related in scale and kind to the development
- 10.113 Regulation 122 of the CIL Regulations 2010 brings the above policy tests into law, requiring that planning obligations can only constitute a reason for granting planning permission where they meet such tests.
- 10.114 On 25th February 2015, Full Council agreed to adopt the borough's Community Infrastructure Levy Charging Schedule. The CIL was introduced on 1st April 2015.
- 10.115 The introduction of the Council's CIL has necessitated a review of the Council's Planning Obligation SPD 2012 that provided guidance on the use of planning obligations in Tower Hamlets. The SPD was approved for public consultation by the Mayor in Cabinet on 8th April 2015 that was carried out between the 27th April 2015

and the 1st June 2015 in line with the Council's Statement of Community Involvement.

10.116 The boroughs four main priorities remain:

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

10.117 The borough's other priorities include:

- Public Realm
- Health
- Sustainable Transport
- Environmental Sustainability

10.118 The development would place additional demands on local infrastructure and facilities including schools, health facilities, Idea stores and libraries, leisure and sport facilities, transport facilities, public open space and the public realm.

10.119 Tower Hamlets Community Infrastructure Levy Regulation 123 List sets out those types of infrastructure (including new provision, replacement or improvements to existing infrastructure, operation and maintenance)* that the Council intends will be, or may, be wholly or partly funded by CIL:-

- Public education facilities
- Community facilities and faith buildings
- Leisure facilities such as sports facilities, libraries and Idea Stores
- Public open space
- Roads and other transport facilities
- Health facilities
- Employment and training facilities
- Strategic energy and sustainability infrastructure
- Strategic flood defences
- Electricity supplies to all Council managed markets
- Infrastructure dedicated to public safety (for example, wider CCTV coverage)
- Strategic public art provision that is not specific to any one site

*Except (inter alia): Where the need for specific infrastructure contributions is required to make the development acceptable in planning terms and in accordance with the statutory requirements and site specific carbon reduction measures/initiatives.

10.120 The applicant has agreed to the following financial contributions to the borough:

- (a) £28,788 towards providing employment & training skills for local residents during construction phase.
- (b) £25,200 for carbon offset projects (subject to status of the Planning and Energy Act 2008).
- (c) £3,000 towards monitoring and implementation (based on a charge of £500 per principle clause).

10.121 The applicant has also agreed 35% affordable housing by habitable room with a tenure split of 65/35 between affordable rented and shared ownership housing. This

offer has been independently assessed and is considered to maximum viable affordable housing in accordance with policy.

10.122 The applicant has also offered to adopt an Employment and Training Strategy involving at least 20% local procurement of goods and services and 20% local labour in construction and a car parking permit-free agreement.

10.123 It is considered that the proposed agreement meets the CIL Regulation 122 tests being necessary to make the developments acceptable in planning terms, directly related to the scheme, fairly and reasonably related in scale and kind, compliant with the NPPF, local and regional planning policies and the terms and spirit of the emerging Tower Hamlets Planning Obligations SPD 2015.

Other Local Finance Considerations

Section 70(2)(b) of the Town and Country Planning Act 1990

10.124 As noted above Section 70(2) of the Act provides that in dealing with a planning application a local planning authority shall have regard to:

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

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

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

In this context “grants” include New Homes Bonus.

10.126 Local finance considerations are to be taken account when determining planning applications or planning appeals.

10.127 As regards to the Community Infrastructure Levy, the London Mayoral CIL was introduced on 1st April 2012 and is estimated at net £186,387 with a CIL relief estimate of £60,880.

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

10.129 If permitted and constructed the development would also subject to the Borough’s Community Infrastructure Levy. This is a standard charge, based on the net floor space of the proposed development, the level of which is set in accordance with the Council’s adopted CIL charging schedule. The estimated Borough CIL for this development is also net £186,387 with a CIL relief estimate of £60,880.

Human Rights Act 1998

10.130 In determining this application the Council is required to have regard to the provisions of the Human Rights Act 1998. The following are highlighted to Members.

10.131 Section 6 of the Act prohibits authorities (including the Council as local planning authority) from acting in a way which is incompatible with the European Convention on Human Rights 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".

10.132 This report itemises the consultation that has been undertaken on the planning application and the opportunities for people to make representations to the local planning authority.

10.133 Were Members not to follow Officer's recommendation, they would need to satisfy themselves that any potential interference with Article 8 rights would be legitimate and justified.

10.134 Both public and private interests are to be taken into account in the exercise of the local planning authority's powers and duties. Any interference with a Convention right must be necessary and proportionate. Members must carefully consider the balance to be struck between individual rights and the wider public interest.

10.135 The Act takes into account any interference with private property rights to ensure that the interference is proportionate and in the public interest. In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered and it is considered that any interference with Article 8 rights (by virtue of any adverse impact on the amenity of homes) is in accordance with law and necessary in a democratic society in the interests of the economic well-being of the country.

Equalities Act 2010

10.136 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.

10.137 The following issues arising from the development are relevant to equalities:

- The requirement to use local labour and services during construction enables local people to take advantage of employment opportunities;
- The proposed affordable housing would support community wellbeing and social cohesion;
- The development allows for an inclusive and accessible environment for less-able and able residents and visitors;
- Conditions are recommended to secure disabled parking and wheelchair adaptable/accessible homes;

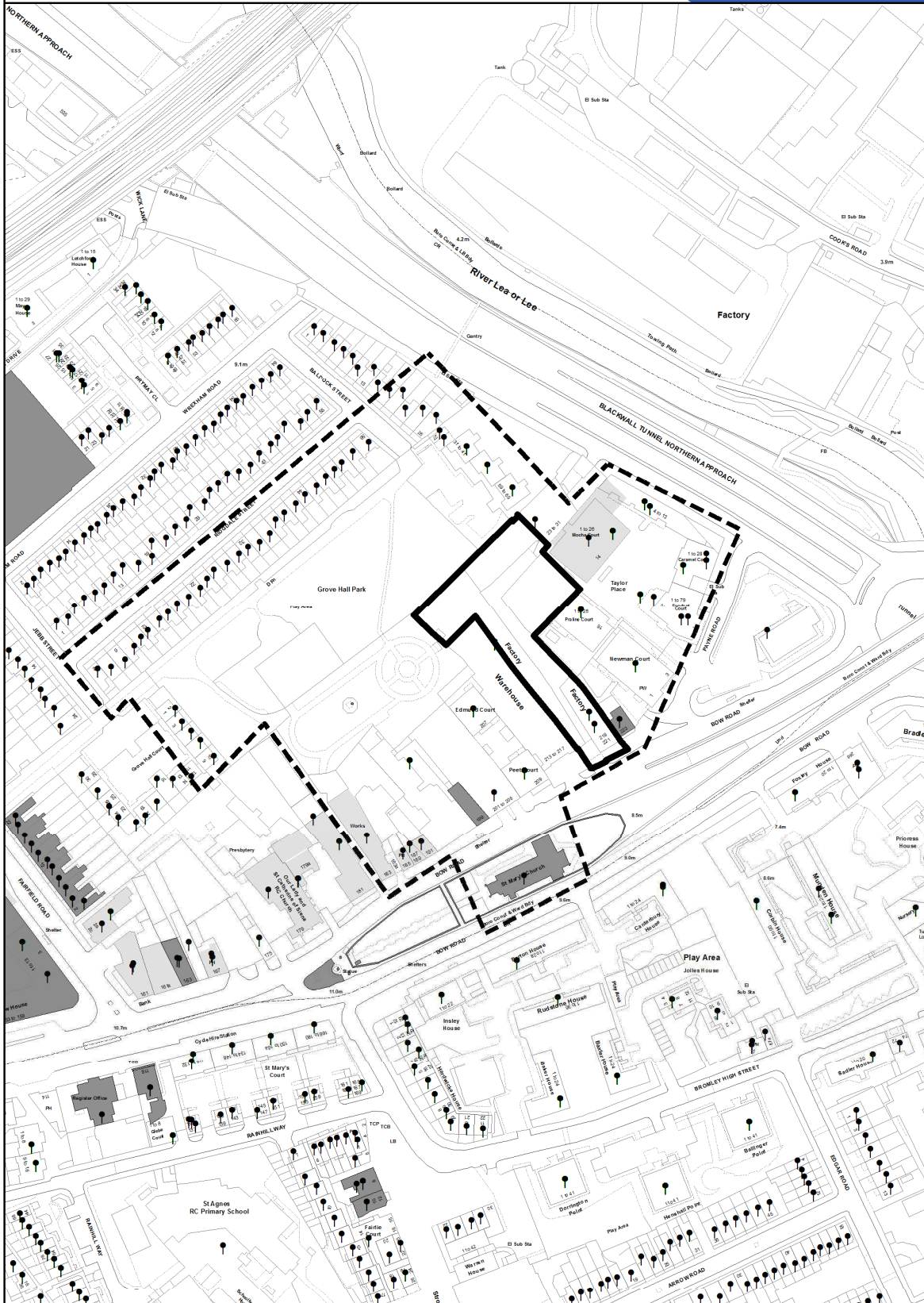
10.138 It is the view of officers that the grant of planning permission would advance equality of opportunity between persons who share a relevant protected characteristic and those who do not share it.


11. CONCLUSION


11.1 All relevant policies and considerations have been taken into account. The scheme would amount to sustainable residential development as set out in the NPPF. The fabric and setting of grade II listed Nos. 199 & 223 Bow Road and St Mary Bow Church grade II* listed would be preserved in accordance with section 66 of the Planning (Listed Buildings and Conservation Areas) Act 1990. The character and appearance of the Fairfield Road Conservation Area would be both preserved and enhanced in accordance with section 72 of the Act.


11.2 The proposal complies with the development plan when considered as a whole. In accordance with section 38 (6) of the Planning and Compulsory Purchase Act 2004 planning permission should be granted for the reasons set out and the details of the decisions set out in the RECOMMENDATIONS at the beginning of this report.


Planning Application Site Map
PA/14/03660





 Planning Application Site Boundary

 Locally Listed Buildings

 Land Parcel Address

 Consultation Area

 Statutory Listed Buildings

0 30 m




1:2,500

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

Agenda Item 7.2

-Committee: Development Committee	Date: 6 th August 2015	Classification: Unrestricted	Agenda Item Number:
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Report of: Corporate Director of Development and Renewal	Title: Planning Application
Case Officer: Lydia Meeson	Ref No: PA/15/00756
	Ward: St Peters

1. APPLICATION DETAILS

Location:	461 Bethnal Green Road, London, E2 9QH
Existing Use:	Gym (Use Class D2) at lower ground floor level and residential (Use Class C3) above
Proposal:	Change of use of lower ground floor from gym (Use Class D2) to 4x serviced apartments (Use Class C1).
Drawing and documents:	Site Location Plan, FV-2015-01 Rev A, FV-2015-02 Rev A, FV-2015-03, FV-2015-04, Design and Access Statement, Impact Statement, Business Management Plan, Service and Management Plan (revised), copy of advertisement, letter of correspondence from Chris Syrimis & Co., JLL Hotel Intelligence report.
Applicant:	Mr Savvas Hadjikyriacou
Ownership:	Mr Savvas Hadjikyriacou
Historic Building:	N/A
Conservation Area:	N/A

2. EXECUTIVE SUMMARY

- 2.1. This report considers an application to change the use of the lower ground floor of the building from a gym to four service apartments
- 2.2. Officers have considered the particular circumstances of this application against the provision of the Development Plans, national, regional and local guidance and other material considerations as set out in this report, and recommend approval of planning permission.
- 2.3. It is considered that the proposed loss of the gym (use class D2) would not significantly diminish the provision of fitness facilities in the Bethnal Green District Centre, due to the good provision of alternative facilities in the area. Therefore the loss of D2 facilities in this location could be approved in accordance with policy DM8

of the Managing Development Document (2013), policy SP03 of the Adopted Core Strategy (2010) and policy 3.16 of the London Plan (2015).

- 2.4. The proposed provision of serviced apartments (use class C1) is considered to be appropriate in its location in a town centre, in its scale in relation to that location and its proposed management. Therefore this proposal meets the requirements of policies DM7 of the Managing Development Document (2013), policy SP06 of the Adopted Core Strategy (2010) and policy 4.5 of the London Plan (2015).
- 2.5. The proposed change of use is not considered to have any increase amenity impacts on neighbouring residents in relation to the levels of noise and disturbance from the existing use of the property.
- 2.6. This application meets the local and regional policy requirements set out for the storage of refuse, recyclables and bicycles and proposes to be car and car-permit free.

3. RECOMMENDATION

- 3.1. That the Committee resolve to **GRANT** planning permission subject to conditions.
- 3.2. That the Corporate Director Development and Renewal is delegated power to impose conditions and informatives on the planning permission to secure the following matters:

3.3. Conditions

1. The development permitted should commence before the expiry of three years from the date of the permission.

2. The development permitted should be constructed in accordance with the approved plans.

3. Prior to occupation arrangements should be made to secure the development as 'car-free' through a unilateral undertaking between the Developer and the Council. The agreement should ensure that all future users or occupiers cannot apply for or obtain an on-street parking permit, should be implemented prior to occupation and retained in perpetuity unless otherwise agreed in writing from the Local Planning Authority.

4. Details of the proposed cycle storage should be submitted to the council for approval prior to commencement of works and the storage approved should be provided prior to the occupation of the development and retained permanently for the use of occupiers.

5. Details of the proposed refuse and recyclables storage should be submitted to the council for approval prior to commencement of works and the storage approved should be provided prior to the occupation of the development and retained permanently for the use of occupiers.

6. The accommodation permitted should not be occupied for more than 90 consecutive days by any tenant or visitor.

4. PROPOSAL AND LOCATION DETAILS

Site and Surroundings

- 4.1. The application site is a part five, part seven storey red brick building located on the north side of Bethnal Green Road on the east corner of the junction with Punderson Gardens. This application regards the lower ground floor of the building which is accessed from Bethnal Green Road via an entrance in the five storey part of the building.
- 4.2. The lower ground floor of the building is currently used as a gym (use class D2) which operates as a separate business from the remainder of the building and not as ancillary to the residential apartments. The ground floor of the building has three retail units (use class A1) and a lobby for the apartments. The upper storeys (from the first floor) contain a number of residential apartments (use class C3).
- 4.3. The application site is within Bethnal Green East District Centre, which is characterised by a mixture of uses on the ground floor (predominately A1, but also A2, A3, A4 and A5), with residential accommodation on the upper floors.
- 4.4. The application site is not listed and does not lie within a designated Conservation Area.

Proposal

- 4.5. The proposal involves the following:
 - (a) Change of use of the lower ground floor from gym (use class D2) to serviced apartments (use class C1).
 - (b) Alterations to the rear façade of the property, including the removal of the extension, removal of fire escape door, installation of four windows

5. RELEVANT PLANNING HISTORY

- 5.1. **PA/86/00263**
(Former 455-463 (odd) Bethnal Green Road)
Conversion and Extension to provide 90 Flats, 10 Work-Homes, 6 Light Industrial Units, 3 Offices and 2 Retail Units
Permission granted on 23/03/1989
- 5.2. **BG/89/00120**
(Former 461 Bethnal Green Road)
Change of use of the lower ground floor to leisure/gymnasium
Planning permission granted on 16/05/1989

6. POLICY FRAMEWORK

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

6.2. Government Planning Policy Guidance/Statements

National Planning Policy Framework (March 2012) (NPPF)
National Planning Practice Guidance (March 2014)

6.3. The London Plan – Consolidated with Alterations since 2011 (March 2015)

2.15: Town Centres
3.16: Protection and Enhancement of Social Infrastructure
4.5: London’s visitor Infrastructure
4.6 Support for and enhancement of arts, culture, sport and entertainment
6.1: Strategic Approach to Transport
6.3: Assessing effects of development on transport capacity
6.8: Cycling
6.13: Parking
7.4: Local Character

6.4. Site Designations

Bethnal Green District Town Centre

6.5. Tower Hamlets Core Strategy (adopted September 2010) (CS)

SP01: Refocusing on our Town Centres
SP03: Creating Healthy and Liveable Neighbourhoods
SP05: Dealing with Waste
SP06: Delivering Successful Employment Hubs
SP09: Creating Attractive and Safe Streets and Spaces
SP10: Creating Distinct and Durable Places

6.6. Managing Development Document (adopted April 2013) (MDD)

DM1: Development within the Town Centre Hierarchy
DM7: Short Stay Accommodation
DM8: Community Infrastructure
DM14: Managing Waste
DM22: Parking
DM23: Streets and the Public Realm
DM24: Place-sensitive Design
DM25: Amenity

6.7. Other Relevant Documents

N/A

7. CONSULTATION RESPONSES

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

7.2. The following were consulted regarding the application:

Internal Consultees

Highways and Transportation

- 7.3. Highways have no objection to the application.

Neighbours Representations

- 7.4. A total of 144 planning notification letters were sent to nearby properties. The application proposal was also publicised by way of a site notice and press notice. A total of 23 letters of representation were received objecting to the proposal.

A summary of the objections received

- 7.5. Noise and Disturbance – objectors expressed concern over the potential for noise from future occupiers and possible risk to existing residents’ security from short stay guests.
- 7.6. The change of the rear of the building – objectors believe there will be change in visual appearance at the rear and they believe that the proposals extend into the ‘communal areas’.
- 7.7. The safety of future occupants – objectors noted the proposed accommodation would not be wheelchair accessible and that the rear fire escape door has been removed.
Officers Response: *The issues raised in the objections are addressed in the material planning considerations section of this report.*

8. MATERIAL PLANNING CONSIDERATIONS

Land Use

- 8.1. The application proposal seeks to change the gym which totals 185sqm of D2 floorspace into 185sqm of C1 floorspace arranged as 4 no. serviced apartments, lobby and ancillary storage.

Loss of leisure facilities

- 8.2. Policy DM8 of the Managing Development Document (2013) seeks to protect existing leisure facilities. This is supported by policy SP03 of the Adopted Core Strategy (2010) and policy 3.16 of the London Plan (2015).
- 8.3. Policy DM8 states that the loss of a leisure facility will only be considered upon sufficient demonstration that there is no longer a need for the facility in the local community and the building is no longer suitable, or that the facility is adequately provided elsewhere in the borough.
- 8.4. The applicant has stated that the property is currently vacant due to the poor economic viability of the gym and provided correspondence from their accountant suggesting that the business is likely to make a loss for the 2014-2015 financial year. However upon the officer’s visit it was apparent that the gym is still in operation. The design and access statement draws attention to 8 other gym or fitness facilities within 0.5miles of the site, which is considered to be adequate provision of D2 space of this kind for the Bethnal Green District Centre. Therefore Officers do not believe that the loss of the gym proposed in this application would materially impact the provision of

leisure facilities within the local community and would therefore find this application acceptable.

8.5. Provision of short-stay accommodation

8.6. Policy SP06 of the Adopted Core Strategy (2010) directs serviced apartments towards Central Activities Zones, Activity Areas and major and District Centres, in accordance with policy 4.5 of the London Plan (2015).

8.7. Policy DM7 of the Managing Development Document (2013) seeks to promote the provision of visitor accommodation in such locations where: the size is appropriate to its location within the town centre hierarchy; there is a need for such accommodation; it would not compromise the supply of land for new homes; it would not create an over-concentration of such accommodation. In addition it requires serviced apartments to demonstrate that they will be managed appropriately as short stay accommodation, with occupancy for up to 90 days.

8.8. The application site is located in a town centre location, and this application proposes just four serviced apartments. Therefore officers consider the proposed short stay accommodation to be of an appropriate size to its location. In addition the modest size of the proposed accommodation would ensure that there is not an over-concentration of short stay accommodation in Bethnal Green District Centre.

8.9. Whilst other parts of this building are used for residential accommodation, since the application site is on the lower ground floor with limited lighting conditions, Officers do not believe that this location would be suitable for residential accommodation. Therefore this proposal is not considered to compromise the supply of land for new homes.

8.10. The applicant has not submitted any information to support the specific need for short stay accommodation in the Bethnal Green area. However, given its location in a district centre and its excellent transport accessibility (PTAL 6a), this site is considered to be an appropriate location for visitor accommodation in line with the aim of policy 4.5 of the London Plan to support the increase in provision of visitor accommodation across London in town centre locations with good transport accessibility. Therefore Officers would support the provision of short stay accommodation (use class C1) from this application.

8.11. The applicant has submitted a Business Management Plan, which outlines the proposed operation of the serviced apartment, including the use of a 24hr reception and the limit on time of stay. It is therefore considered that the applicant has demonstrated that they proposed to operate the short stay accommodation appropriately in accordance with policy.

8.12. Permission for this use would be subject to a condition to ensure that the units could not be occupied for more than 90 consecutive days at a time by a single occupant or single group of occupants.

Design

8.13. Policy DM24 of the Managing Development Document (2013) seeks high quality design in development, sensitive to the character of the surrounding area in terms of its use of materials, design details and building lines. This is supported by policy SP10 of the Adopted Core Strategy (2010) and policy 7.4 of the London Plan (2015).

- 8.14. This application proposes few changes to the appearance of the building, only minor changes to the rear. Contrary to objectors concerns, this application would not increase the building's coverage of the plot, but decrease it: the removal of the existing extension to the northeast of the plot would increase the yard space at the rear. It is not considered that this change would materially affect the aesthetic of the building, since this is at lower ground level and not highly visible, and this would revert to be in line with the building line of the remainder of the building. This removal is therefore supported.
- 8.15. In addition this application proposes to install aluminium framed windows of a similar style to the existing windows, which is supported as the resultant façade at ground floor level will be reflective of the style of the remainder of the host building.

Amenity

- 8.16. Policy DM25 of the Managing Development Document (2013), seeks to protect the amenity of neighbouring residents and building occupants from development in accordance with policy SP10 of the Adopted Core Strategy (2010).
- 8.17. Objectors raised particular concern over the potential for noise disturbance from the proposed use. However Officers believe that the proposed change in use would not result in a significant increase in noise emitting from the premises. The existing operation of the property involves music and equipment noise throughout its operation hours which are: 8am-11pm Sunday-Thursday and 8am-12am Fridays and Saturdays. By contrast the noise of guests in occupation is likely to be less due to its nature as visitor accommodation or for overnight stays.
- 8.18. The noise of the entrance and exit of guests is limited to the south side off the building which already has high levels of ambient noise from Bethnal Green Road. Due to the small number of users it is not considered that the additional use of the space would cause any material increase in noise levels for the other occupants of the building.
- 8.19. Objectors also raised concerns over the security of residents as a result of the proposed change in use. The provision of short stay accommodation at this location is not considered to materially affect the security of the remaining building occupants as the entrance of the building is separate from the residential entrance and the future occupants of the serviced apartments would not have any access to the communal parts of the building or the car park to the rear.

Transport

Servicing and Delivery

- 8.20. Currently the gym is serviced from Bethnal Green Road for both deliveries to the premises and commercial refuse and recycling collection (of sacks left on the street on the day of collection).
- 8.21. This application proposes to retain servicing and deliveries via Bethnal Green Road. Although the proposed change of use would involve increased deliveries to the premises for laundry items, due to the small size of the proposed development it is not considered that this would materially impact the congestion on Bethnal Green Road. Equally, due its small size and temporary nature the proposed accommodation is not considered by Officers to result in a material increase in refuse and recycling that would make on-street sack collection inappropriate.

Car & Cycle Parking

- 8.22. The NPPF and Policies 6.1 and 6.9 of the London Plan (2011), Policy SP09 (4) of the Core Strategy (2011) and Policies DM20 and DM22 of the Managing Development document (2013) seeks to ensure development proposals promote sustainable modes of transport and accessibility, and reduce the need to travel by car.
- 8.23. Currently the gym provides no cycle storage and does not benefit from parking in the rear car park or any other off-street parking facilities; the only parking provision being pay and display bays in front of the premises on Bethnal Green Road.
- 8.24. The proposal does not include any on site car parking and the site has an excellent Public Transport Accessibility Rating (PTAL 6a). The proposal has been assessed by the Council's Highway and Transportation Team, who have raised no objection to nil parking provision and in view of this a car free development would be encouraged. It is considered that this objective can be secured by a condition to secure a permit free development through a unilateral undertaking between the Owner and the Council.
- 8.25. The Parking Addendum to chapter 6 of the London Plan (2015) sets minimum parking standards of 1 cycle space per 20 bedrooms for developments with C1 use. The scheme proposes secure storage for 5 bicycles in the southwest corner of the lower ground floor, by way of wall mounted cycle racks. This provision would exceed the minimum provision of cycle spaces; and, whilst it is noted that the lower ground floor location and lack of lift is not the most desirable access arrangement, Officers consider that there is no other suitable arrangement. Since the size of the curtilage at ground floor level is not sufficient for a lift or alternative storage space, basement level cycle storage is considered acceptable. In addition alternative location of the storage space under the stairs to the rear of the property is considered inappropriate by Officers because there is no access through the rear of the property and therefore the journey to the accommodation from the store would be too lengthy to enable ease of use.
- 8.26. Therefore, subject to a condition to ensure that this facility is provided prior to occupation and retained, it is considered that the proposals would accord with the above policy requirements.

Refuse and Recyclables Storage

- 8.27. Policy SP05 in the adopted Core Strategy (2010) states developments which are likely to produce significant quantities of waste must include adequate arrangements for its collection and storage. This is further emphasised by policy DM14 of the Managing Development Document.
- 8.28. Currently refuse and recycling is stored in a storage room at the northeast corner of the property, although the details of this provision in terms of bin capacity, etc. is not known.
- 8.29. The scheme proposes a small storage area for refuse and recyclables in the south of the building accessed via the cycle storage. This is not located on ground floor level and there is no lift to facilitate the removal of refuse and recyclables from the property. However, given the lack of a viable alternative location for this within the site (as considered with the cycle storage) and it is considered that this provision is acceptable.

Other Issues

- 8.30. Objectors raised concerns over the proposal's lack of accessibility for wheelchair users or less mobile persons. Although efforts could have been made to provide wheelchair accessible accommodation, given the current lack of accessibility and the constraints of the size and level of the site, Officers consider that this is acceptable in this instance.
- 8.31. Objectors also note that the rear fire escape at the site would be removed under these proposals. Whilst Officers would wish to ensure safe means of egress for occupiers in the event of a fire, the specific requirements for this development are covered under building regulations legislation and are not a material planning consideration; therefore this would not be considered a reason for refusal.

9. 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 Conventions rights are likely to be relevant including:
- (a) Entitlement to a fair and public hearing within a reasonable time by an independent and impartial tribunal established by the 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;
 - (b) 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's interest (Convention Article 8); and
 - (c) Peaceful enjoyment of possession (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 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 measures which are proposed to be taken to minimise, inter alia, the adverse effects of noise, construction and general disturbance are acceptable and that any potential interference with Article 8 rights will be legitimate and justified.

- 9.5. Both public and private interests are to be taken into account in the exercise of the Council's planning authority's power 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.
- 9.8. In this context, the balance to be struck between individual rights and the wider public interest has been carefully considered. Officers consider that any interference with Convention rights is justified.

10. EQUALITIES

- 10.1. 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.
- 10.2. 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.

With regard to age, disability, gender reassignment, pregnancy and maternity, race religion or belief, sex and sexual orientation there are no identified equality considerations.

11. FINANCIAL CONSIDERATIONS

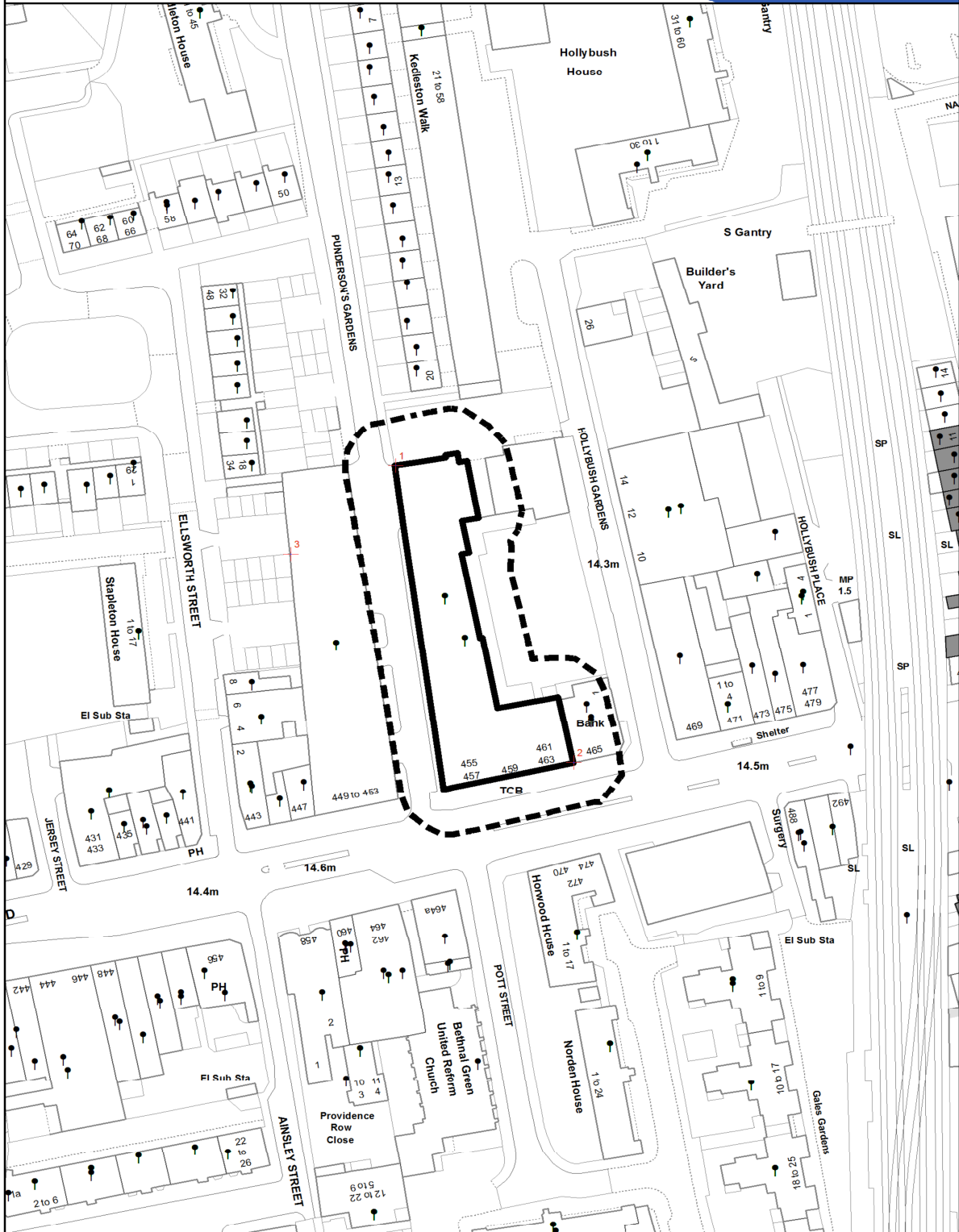
- 11.1. Section 70(2) of the Town and Country Planning Act 1990 (as amended) requires that in determining planning applications, the authority shall have regard to (amongst other things) any local finance considerations, so far as material to the application.
- 11.2. Section 70(4) defines "local finance consideration" as:
 - (a) A grant or other financial assistance that has been, or will or could be, provided to a relevant authority by a Minister of the Crown; or
 - (b) Sums that a relevant authority has received, or will or could receive, in payment of Community Infrastructure Levy.







11.3. Members are reminded that that the London Mayoral CIL became operational from 1 April 2012s and that Borough's Community Infrastructure Levy came into on 1st April. Both of which are payable (subject to certain exceptions) on floorspace created by development. However, in this case no additional floor space is being provided and since the property is currently occupied and has been for a continuous period of six months during the previous 3 years, the entire existing floorspace of the property would be deducted for CIL purposes and the liability would be zero

12. CONCLUSION

12.1. All other relevant policies and considerations have been taken into account. Planning permission should be **approved** for the reasons set out in RECOMMENDATION section of this report.

Planning Application Site Map
PA/15/00756



	Planning Application Site Boundary		Locally Listed Buildings		Land Parcel Address	
	Consultation Area		Statutory Listed Buildings	0 30 m		

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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