

COMMISSIONERS' INDIVIDUAL DECISION MAKING

Monday, 3 August 2015


Commissioners' Decision Log No. 20

1. **CROSSRAIL ACCESS LICENCE AND ASSOCIATED WORKS - WHITECHAPEL (Pages 1 - 14)**

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Agenda Item 1

Individual Commissioner Decision Decision Log No: 020	 TOWER HAMLETS
Report of: Corporate Director of Development & Renewal	Classification: Unrestricted
Crossrail Access Licence and Associated Works - Whitechapel	

Is this a Key Decision?	No
Decision Notice Publication Date:	N/A
General Exception or Urgency Notice published?	Not required
Restrictions:	None

EXECUTIVE SUMMARY

When completed Crossrail will run between Stratford and Abbey Wood in the east to Paddington, Heathrow and Reading in the west. The railway runs in tunnel through the borough and there are stations in Canary Wharf and Whitechapel. The central section between Stratford and Paddington is programmed to be open for public service by December 2018.

Whitechapel Station is being constructed in a severely constrained location being surrounded on all sides by residential properties together with Swanlea School and Whitechapel Sports Centre. The complexities of construction in conjunction with the need to minimise the impact on neighbouring properties has resulted in delays to the programme such that the completion of the station is now on the critical path for the completion of the whole project. Very recently Crossrail has advised that the current construction methodology and programme could result in difficulty in achieving the December 2018 planned completion dates for the whole project.

In order to meet the overall construction programme, Crossrail have put forward a proposal to construct a secondary means of access to the Station tunnels by a new shaft in addition to the existing shaft in Brady Street. The construction of this second shaft will enable additional resources to be deployed by working from two locations which will ensure that the overall opening of the Crossrail project will not be delayed. Crossrail have considered four possible locations for a new shaft and has demonstrated that the optimum location is at the artificial football pitch located at the rear of Whitechapel Sports Centre.

Full details of the decision sought, including setting out the reasons for the recommendations and/or all the options put forward; other options considered; background information; the comments of the Chief Finance Officer; the concurrent report of the Head of Legal Services; implications for One Tower Hamlets; Risk Assessment; Background Documents; **and other relevant matters are set out in the attached report.**

DECISION

The Commissioners are recommended to:

1. Agree to the Council's proposal to issue a licence for two years and six months, for the artificial football pitch located at the rear of the Whitechapel Sports Centre, 55 Durward Street, London E1 5BA, as shown on the plan attached as Appendix A, in exchange for the compensation and terms set out in this report.

APPROVALS

1. **(If applicable) Corporate Director proposing the decision or his/her deputy**

I approve the attached report and proposed decision above for submission to the Commissioners.

Signed  Date 31/07/15

2. **Chief Finance Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

Signed  Date 31/07/15

3. **Monitoring Officer or his/her deputy**

I have been consulted on the content of the attached report which includes my comments.

~~(For Key Decision only - delete as applicable)~~

~~I confirm that this decision:-~~

~~(a) has been published in advance on the Council's Forward Plan OR~~

~~(b) is urgent and subject to the 'General Exception' or 'Special Urgency' provision at paragraph 18 or 19 respectively of the Access to Information Procedure Rules.~~

Signed  Date 31/07/15

4. Commissioner

I agree the decision proposed in paragraph above for the reasons set out in paragraph 1 in the attached report.

Name *MAX CALLEN* Signed 

Date .. *3/2/15*

Name Signed


Date

Name Signed

Date

Name Signed

Date

Commissioner Decision Report 29 July 2015	
Report of: Corporate Director of Development & Renewal	Classification: Unrestricted
Crossrail Access Licence and Associated Works - Whitechapel	

Originating Officer(s)	Service Head, Corporate Property & Capital Delivery
Wards affected	Whitechapel
Key Decision?	No
Community Plan Theme	One Tower Hamlets

Executive Summary

When completed Crossrail will run between Stratford and Abbey Wood in the east to Paddington, Heathrow and Reading in the west. The railway runs in tunnel through the borough and there are stations in Canary Wharf and Whitechapel. The central section between Stratford and Paddington is programmed to be open for public service by December 2018.

Whitechapel Station is being constructed in a severely constrained location being surrounded on all sides by residential properties together with Swanlea School and Whitechapel Sports Centre. The complexities of construction in conjunction with the need to minimise the impact on neighbouring properties has resulted in delays to the programme such that the completion of the station is now on the critical path for the completion of the whole project. Very recently Crossrail has advised that the current construction methodology and programme could result in difficulty in achieving the December 2018 planned completion dates for the whole project.

In order to meet the overall construction programme, Crossrail have put forward a proposal to construct a secondary means of access to the Station tunnels by a new shaft in addition to the existing shaft in Brady Street. The construction of this second shaft will enable additional resources to be deployed by working from two locations which will ensure that the overall opening of the Crossrail project will not be delayed. Crossrail have considered four possible locations for a new shaft and has demonstrated that the optimum location is at the artificial football pitch located at the rear of Whitechapel Sports Centre.

Recommendations:

The Commissioners are recommended to:

1. Agree to the Council's proposal to issue a licence for two years and six months, for the artificial football pitch located at the rear of the

Whitechapel Sports Centre, 55 Durward Street, London E1 5BA, as shown on the plan attached as Appendix A, in exchange for the compensation and terms set out in this report.

1. REASONS FOR THE DECISIONS

- 1.1 To allow Crossrail to meet their programme delivery targets.
- 1.2 In doing so, Crossrail will compensate Greenwich Leisure Limited and the Council for inconvenience caused and any resultant loss in profits/revenue (details in the main body of the report).

2. ALTERNATIVE OPTIONS

- 2.1 Do nothing and not permit Crossrail access to Council-owned land to construct a secondary shaft. This would put Crossrail's programme delivery at risk and may have undesirable reputational consequences for the Council in the short to medium term.

3. DETAILS OF REPORT

- 3.1 Crossrail's contractors would take possession of the whole football pitch for a period of two years, ideally commencing from the end of July, 2015. Vehicular access to the site would be via Trahorn Close and would require part demolition of the boundary wall that surrounds the football pitch. Apart from the drilling equipment required to construct two boreholes, vehicles would be limited to a maximum gross vehicle weight of 3.5 tons. This will be no bigger than a transit size vehicle with a tipping body fitted to the chassis.
- 3.2 It is proposed to construct one 2-metre and one 1-metre diameter boreholes. The two-metre borehole will be used to remove waste construction materials and also supply additional building materials as necessary, and the 1-metre borehole will be used to provide services such as power and water to the tunnel working areas. The boreholes and surface working area would be enclosed within an acoustic shed where waste materials would be stored.
- 3.3 Although underground working will take place on a 24 hour basis, the night working activities at the site would be contained within the acoustic shed and waste removal and site deliveries will be restricted to daytime restrictions. Concrete deliveries will be pumped underground from the existing concrete batching plant at Brady Street. Crossrail has submitted a detailed environmental assessment which it has agreed with Council officers and will not cause unacceptable environmental impacts. Crossrail have also held positive discussions with Tower Hamlets Community Housing who are responsible for the management of the residential properties in Trahorn Close and the allocation of the parking spaces.

Proposed Mitigation measures

- 3.4 Crossrail recognises that its proposal will have significant financial implications to both the Council and Greenwich Leisure Limited, as well as result in the loss of an important local sports facility for the local community. Crossrail have therefore put forward the following mitigation/compensation proposals:-
- 3.5 Compensation of £443,525 (payable to Greenwich Leisure Limited) for loss of pitch income for two years from the signing of the licence plus a weekly penalty payment of £5,000 (payable to Greenwich Leisure Limited) for overruns of the 2 year period.
- 3.6 Construction of a new football pitch (multi-use games area) in Allen Gardens to provide an alternative provision for existing pitch users, albeit the new football pitch will not be completed before the new pitch is taken out of use. If the terms and conditions have not been agreed with the Council by 31st October 2015, Crossrail will pay the Council £140,000 plus VAT together with a 15% management fee.
- 3.7 Full reinstatement of the existing pitch to 3G standard and re-instatement of walls etc will be undertaken to the Council's standards at the end of the agreed term
- 3.8 Modification to the existing fire exit route into Trahorn Close to ensure full compliance with fire safety requirements.
- 3.9 Re-siting of the three parking spaces in Trahorn Close which will be lost following demolition of the existing wall.
- 3.10 Full dilapidation survey of the sports centre pre- and post-works and any repairs undertaken as required.
- 3.11 Noise mitigation and necessary works carried out to ensure that the quiet areas and the crèche will not suffer from any noise increase due to construction works being carried out.
- 3.12 Crossrail pay the Council the sum of £56,500 within 14 days of the signing of the licence as a contribution to the cost of additional lighting columns in Durward Street as part of the overall public realm improvements and additional children's play equipment in Vallance Gardens.
- 3.13 To hold monthly meetings with the Council and GLL to monitor activities on the site and resolve any issues that may arise during construction.

Legal agreement:

- 3.14 It is proposed that Crossrail's occupation of the site, and the mitigation described above will be secured by means of a licence between the Council,

Greenwich Leisure Limited, and Crossrail Limited. Attached to the licence will be the detailed specification for the reinstated football pitch at Whitechapel Sports Centre, the specification for the new football pitch in Allen Gardens and the specification for the means of maintaining an emergency escape route from the Sports Centre to Trahorn Close.

- 3.15 In addition, Crossrail will require a variation on the Parliamentary Assurance on the use of Trahorn Close which limits vehicular access to a maximum of 3.5 ton gross vehicle weight. The variation is required to enable the larger vehicle bringing the drilling equipment onto the site to use Trahorn close and can be agreed by the Director of Development and Regeneration using the delegated powers that have been agreed by the Council.
- 3.16 Following agreement with the Council, Crossrail will also undertake consultation and discussions with residents of Trahorn Close and other affected local roads used to provide access to the site

Conclusions

- 3.17 The loss of the football pitch at the Whitechapel Sports Centre for two years will cause significant inconvenience for existing pitch users and has potentially significant financial implications for Greenwich Leisure and the Council. However, it is recognised that the prompt completion of Crossrail is a national, regional and local priority that will bring about considerable economic, transport and regeneration benefits both throughout London and in the borough.
- 3.18 Officers are satisfied that the proposals put forward by Crossrail will not cause significant construction impacts to neighbouring residential property, but any such impacts will be closely monitored and remedial action taken as necessary. The mitigation proposals put forward by Crossrail will mitigate the financial impact of the loss of the football pitch, and ultimately the reinstated football pitch at Whitechapel Sports Centre and the new pitch in Allen Gardens will provide long term improvements in sports facilities in this part of the borough.

4. COMMENTS OF THE CHIEF FINANCE OFFICER

- 4.1 In order to secure a second means of access to the tunnels in the Whitechapel station area, the Council has been approached by Crossrail to utilise the artificial football pitch located at the rear of Whitechapel Sports Centre. This report seeks approval to issue a licence for a term of two and a half years in accordance with the conditions set out.
- 4.2 Whitechapel Sports Centre is managed by Greenwich Leisure Limited (GLL), under a partnership contract with the Council. Pitch hire fees are collected by GLL and form part of an agreement whereby any surplus is shared between the Council and GLL.

- 4.3 In order to compensate for the loss of the pitch, Crossrail has proposed a range of mitigating measures. These are laid out in paragraphs 3.4 to 3.13, with the major financial aspects being:
- Compensation of £443,525 for the loss of pitch income for two years, plus a weekly penalty payment of £5,000 if the two year period is exceeded.
 - Construction of a new football pitch in Allen Gardens to provide an alternative provision for existing pitch users. The new pitch will not be completed before the existing pitch is taken out of use, but if the terms and conditions have not been agreed with the Council by 31st October 2015, Crossrail will pay the Council £140,000 plus a 15% management fee.
 - On completion of the Crossrail works, a full reinstatement of the Whitechapel Sports Centre pitch to 3G standard.
- 4.4 The compensation proposal is based on GLL's calculation of the potential loss. This includes an assessment of:
- The anticipated loss in booking fees
 - The impact on the 'Play & Pay' and Direct Debit membership where a fall off is expected due the reduced provision
 - A new private 'Play on Sport' facility opening in the vicinity and the possible permanent loss of business
 - The management costs involved in the administration and publicity of the loss of pitch facility
 - The reorganisation of emergency exit routes and other Health and Safety considerations.
- 4.5 Crossrail is also proposing to undertake dilapidation surveys of the sports centre both before and after the works and to undertake repairs as required. It will also fund £56,500 of public realm improvements.
- 4.6 Arrangements will need to be made with GLL to ensure that that all the mitigating factors and compensation elements are included when annual accounts are prepared and the levels of any surpluses are determined. Any maintenance savings that arise from the pitch not being available for a two year period should also be reflected in the assessment of the accounts.
- 4.7 In terms of the upgraded 3G pitch that the Council will receive at the end of the works, it is estimated that the cost of provision at current prices is approximately £300,000. The Council will also retain the new pitch that will be constructed in Allen Gardens, the management and maintenance of which will need to be incorporated into the GLL contract

5. LEGAL COMMENTS

- 5.1 The Council granted a lease of the Whitechapel Sports Centre to Greenwich Leisure Limited on 13th October 2011 for a term which commenced on 1st May 2004 and which will expire on 30th April 2019.

- 5.2 In view of the terms of the lease Greenwich Leisure Limited require the consent of the Council before Crossrail Limited can be given the access it requires. It is understood that Crossrail Limited has no applicable statutory powers.
- 5.3 As tenant under the lease Greenwich Leisure Limited has exclusive possession of the site and would be entitled to exclude Crossrail Limited from the site. The licence is, in the opinion of officers a purely contractual licence but it would be possible to view it as a short term lease and if so, it is within the terms of paragraph 4(1) of the Directions made by the Secretary of State for Communities and Local Government under sections 15(5) and 15(6) of the Local Government Act 1999 which required that “until March 31st 2017 the Council obtains the prior written agreement of the Commissioners before entering into any commitment to dispose of or otherwise transfer to third parties any real property other than single dwellings for the purposes of residential accommodation”. Accordingly, the proposed transaction requires the prior written consent of the Commissioners.
- 5.4 The Council has power under section 123 of the Local Government Act 1972 to dispose of land which it holds. The Council is not required by that section to dispose of land for the best consideration reasonably obtainable if the term of any proposed lease is less than 7 years. In this case, if the transaction is a lease, the term will not exceed 2 years and 6 months. If it is a licence S123 of the Act does not apply.
- 5.5 The Council is obliged under section 3 Local Government Act 1999 to “make arrangements to secure continuous improvements in the way in which its functions are exercised having regard to a combination of economy efficiency and effectiveness” Officers are satisfied that the Council has fulfilled this duty in this case, because it is being itself compensated by Crossrail Limited and enabling Crossrail to proceed with a project of local and national importance.
- 5.6 In the exercise of its functions, the Council has a duty under Section 149 of the Equality Act 2010 to have due regard to the need eliminate unlawful discrimination, advance equality of opportunity and foster good relations between those who share a protected characteristic and those who do not. The mitigation and compensation proposals which will be provided by Crossrail Limited to the council as part of this transaction will benefit all members of the community and therefore officers consider that this duty will have been discharged.

6. ONE TOWER HAMLETS CONSIDERATIONS

- 6.1. The proposal set out in this report will generate income which can be applied to the Council’s priorities as articulated in the Community and Strategic Plans.

- 6.2. The completion of Crossrail will deliver significant benefits to all residents of the borough, increasing economic activity and regenerating the area around the Crossrail station.

7. BEST VALUE (BV) IMPLICATIONS

- 7.1 The arrangement proposed in this report support the Council's best value duty. The proposed transaction represents an efficient and effective use of the Council's estate. The mitigation proposals put forward by Crossrail will mitigate the financial impact of the loss of the football pitch, and ultimately the reinstated football pitch at Whitechapel Sports Centre and the new pitch in Allen Gardens will provide long term improvements in sports facilities in this part of the borough.
- 7.2 Not entering into the arrangements could result in difficulty in achieving the December 2018 planned completion dates for the whole project.

8. SUSTAINABLE ACTION FOR A GREENER ENVIRONMENT

- 8.1 There are no immediate environmental implications arising from this report.

9. RISK MANAGEMENT IMPLICATIONS

- 9.1 The risks to the Council will be managed by ensuring the Council's position is protected within the terms set out in the licence.

10. CRIME AND DISORDER REDUCTION IMPLICATIONS

- 10.1 There are no immediate crime and disorder implications arising from this report.

11. SAFEGUARDING IMPLICATIONS

- 11.1 There are no immediate safeguarding implications arising from this report.

Linked Reports, Appendices and Background Documents

Linked Report

- None

Appendices

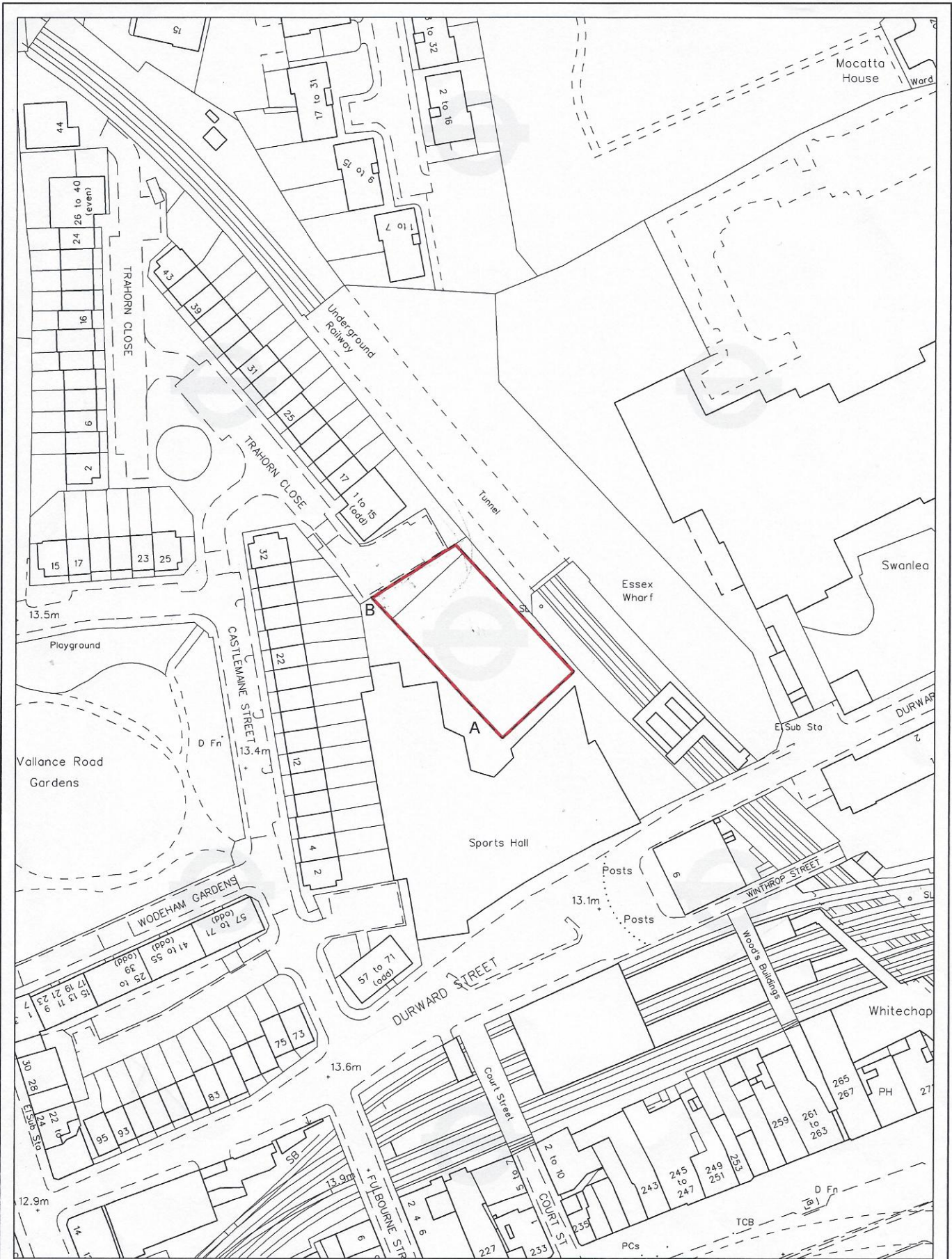
- Appendix A – Site Plan

Background Documents – Local Authorities (Executive Arrangements)(Access to Information)(England) Regulations 2012

- None.

Officer contact details for documents:

Gavin Wilson, Interim Head of Asset Management, x4355



Transport for London
 TfL Operational Property
 Commercial Development
 Windsor House
 42-50 Victoria Street
 SW1H 0TL

Land to be used
 by Crossrail at the
 Whitechapel Sports Centre



A4 Portrait

Date : 22/06/2015

Initials : IA

Drg No. : RF-WHCH-05

Rev : A

Scale : 1:1250 at A4

MAYOR OF LONDON

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PLAN I

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